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ABSTRACT

The conference from which these papers were taken was designed to present a balanced cross-section of opinion on the controversial subject of corporal punishment in the school. The papers contained in this volume include a review of the research on the effects of punishment, an analysis of state legislation regulating corporal punishment in the schools, as well as papers for and against the use of corporal punishment. Special attention is given to the U.S. Supreme Court's decision in the Ingraham v. Wright case, in which the Court ruled that corporal punishment does not violate student's Eighth Amendment rights (fredeom from cruel and unusual punishment) nor require due process before it is applied to students. The volume concludes with an open forum dialogue among representatives of the American Federation of Teachers, the American Psychological Association, and the National Parent Teacher Association. (DS)

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PROCEEDINGS
CONFERENCE ON CORPORAL PUNISHMENT IN THE SCHOOLS: A NATIONAL DEBATE

February 18-20, 1977

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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Edited by

James H. Wise

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Introduction

During the weekend of February 18-20, 1977, the Child Protection Center of Children's Hospital National Medical Center, Washington, D.C., hosted a national invitational conference on child abuse. One section of that conference, supported in part by funds from the National Institute of Education, devoted an intensive two and one half days to a singular topic: corporal punishment in the schools. The examination of corporal punishment in the schools proved both unprecedented and timely. Unprecedented, in the fact that for the first time the question of corporal punishment in our schools was seriously considered and intensively discussed within the overall framework of a national conference on child abuse. Timely, in the very real sense that just three months prior to the conference the Supreme Court had heard oral arguments for the first time on corporal punishment in the schools. At the time of the conference, however, the High Court had not yet handed down a decision on *Ingraham* v. *Wright*. On April 18th, 1977, exactly two months after the conference, the Supreme Court ruled on *Ingraham* v. *Wright*. In a five to four decision the Court ruled that corporal punishment in public schools was not a violation of the Eighth Amendment's prohibition against cruel and unusual punishment. The Court also decided that due process protections need not be accorded school children before corporal punishment is used.

This conference on corporal punishment was specifically designed to present a balanced cross section of opinion on this controversial and heretofore surprisingly understudied issue. Given the complexity of the topic, the conference was also designed to examine corporal punishment from a variety of perspectives. The eight formal papers presented examined historical and constitutional considerations; debated inherent philosophical, moral, ethical and practical issues; analyzed and reported on corporal punishment practices and excesses in our nation's classrooms today; surveyed the current status of state statutes regarding corporal punishment; provided a scientific overview and appraisal of the effect of physical punishment on children's behavior and emotions; and finally, presented an initial examination of corporal punishment from a cross-cultural perspective. In addition, an open forum dialogue was held which included representatives of three national associations: the American Federation of Teachers, the American Psychological Association, and the National Parent Teacher Association.

This was a truly important and productive conference. It is difficult to recapture on paper the lively spirit and enthusiasm of the conferees who spent an intensive weekend engaged in debate and dialogue on the issue of corporal punishment in our schools. Despite this limitation, the proceedings which follow are the real fruit of the conference and are preserved for the reader's examination and thought. Hopefully they will provide new insights for many, fresh ideas for some, further questions by others and perhaps in time, some answers for us all.

James H. Wise, Ph.D.

Corporal Punishment And Alternatives In The Schools: An Overview Of Theoretical And Practical Issues

a paper presented by

Irwin A. Hyman Eileen McDowell Barbara Raines

Introduction

Most people in this country believe that the use of corporal punishment in the schools is either not a problem or a problem of such low priority that it is not worth considering. Any informal poll will most likely reveal a general belief that corporal punishment is little used or that when applied it is usually minor and preferred by most children to other forms of punishment. A substantial percentage would probably feel it should be used more often. This latter belief is related to the results of recent Gallup Polls which indicate that most citizens feel that discipline is the major problem in schools today (Gallup, 1976). However, consider the following:

1. In a Florida school a young man was held down on a table while a principal beat him 20 times on his buttocks with a paddle. The beating was severe enough to cause an oozing hematoma which required three hospital treatments. The young man missed ten days of school and was unable to sit comfortably for three weeks following this incident (Nussbaum, Hilmer, & Precup, 1976).

2. In Vermont, in 1974, a young sixth grade student was seriously beaten by the principal for striking another student. The principal struck the child repeatedly, knocking him from his seat and onto the floor. He then proceeded to kick the child in the abdomen, back, and legs and pull his hair. The child suffered severe bodily bruises (*Roberts* v. *Way*, 1975).

3. In Missouri, after being caught with cigarettes, three boys were given the choice of receiving a paddling or eating their cigarettes. The prospective paddling evoked sufficient distaste from two of the boys that they preferred to eat 18 cigarettes. This ingestion of tobacco resulted in a three day hospitalization for both boys. One boy suffered aggravation of an existing ulcer, while the other developed a kidney infection. Both conditions were attributed to the ingestion of tobacco (*Hub*, 1976).

4. The enlightened school board of Aztec, New Mexico "banned the use of the rubber hose for disciplining grade school children. Instead, corporal punishment [is] . . . administered with a leather strap" (Hentoff, 1973, p.56).

5. In a shop class in Pittsburgh, in one of the "best" elementary schools, a seventh grade student allegedly mumbled something under his breath. Whatever it was, the teacher became enraged, grabbed the student by the throat and slammed him against the wall (Schumacher, 1971).

6. During the 1971-1972 school year, the Dallas Public Schools reported an average of 2,000 incidents of physical punishment per month (It's time to, 1972).

7. In the Houston Public Schools, it was reported by Dr. J. Boney, an administrator, that during a two month period in 1972, 8,279 paddlings were administered (Elardo, 1977).

8. In New York City (Polier, Alvarez, Broderick, Harrison-Ross, & Weaver, 1974) and Pittsburgh (Schumacher, 1971), black administrators were accused of excessive paddling of black children, even though corporal punishment was banned by the school boards. In both cases, even though it was proven that the paddling took place, the administrators and many pro-corporal punishment parents first denied its use and later defended it on the basis that physical punishment was the only thing many of the black children understood. In both cases, the accusers were attacked as racists trying to prove the incompetancy of black educators.

Some of the preceding cases and many other reported examples of excesses of corporal punishment are presented in a paper by Maurer (1977). Without further documentation, it is clear to many that corporal punishment is a problem. It also should be conceptualized as a form of child abuse which is in contradiction to much of what Americans say they believe about democracy.

Definition of Corporal Punishment

The general definition of the term corporal punishment indicates it to be the infliction of pain, loss, or confinement of the human body as a penalty for some offense (Barnhart, 1963). The legal definition is similar. *Black's Law Dictionary* (1968) defines corporal punishment as "physical punishment as distinguished from pecuniary punishment or a fine; any kind of punishment of or inflicted on the body, such as whipping or the pillary. The term may or may not include imprisonment according to the individual case." Educationally, corporal punishment has been generally defined as: the infliction of pain by a teacher or other educational official upon the body of a student as a penalty for doing something which has been disapproved of by the punisher (Wineman & James, 1967). The infliction of pain is not limited to striking a child with a paddle or the hand. Any excessive discomfort, such as forced standing for long periods of time, confinement in an uncomfortable space, or forcing children to eat obnoxious substances fits the description. The intent of corporal punishment laws which forbid its use is to offer certain limitations. Therefore, corporal punishment is not implied when: 1) the teacher uses force to protect himself or herself, the pupil or others from physical injury; 2) when used to obtain possession of a weapon or other dangerous objects, or; 3) when used to protect property from damage (National Education Association, 1972).

Implicit in any legal definition of a punishment in American democratic society is the constitutional right of "due process." Also implied, is that a penalty cannot be administered without "due process." The schools, although a logical extension of the governing body, have until recently completely ignored the concept of due process (*Baker* v. *Owen*, 1975; *Goss* v. *Lopez*, 1975).

The latter definition is subject to further stipulation by rules and regulations of individual states, counties and school districts, relatively few of which provide for a student's right

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to "due process." For instance, Michigan law, as cited by Wineberg and James (1967), makes provisions for the moderation of corporal punishment whereby the teacher has the power to decide which offenses constitute an act that is "detrimental to the interests of the school." Once this subjective decision has been made the teacher is given the right to determine what is "cruel, or excessive," and the right to determine to what extent a child can be punished in accordance with "the gravity of the offense, the apparent motive and disposition of the offender and the size, sex, and physical strength of the pupil." Aron and Katz (1971) report that the courts of Alabama, Iowa, Louisiana, Massachusetts, North Carolina and Vermont uphold similar laws clarifying the issue of corporal punishment in the schools. Despite the tempering of corporal punishment that these laws indicate, it is difficult to envision a teacher, in a fit of rage over an impudent pupil, stopping to consider these stipulations before executing the act of punishment.

In addition to the unconstitutionality implied in the above definition, there is another question raised. Aron and Katz (1971) suggest that it is unfair to have the same person (the teacher) act as accuser, judge and executioner. A corollary in legal practice is the Supreme Court's decision that the emotional involvement of the judge, who declares a defendent in contempt, disqualifies him from presiding when the contempt issue is tried (*Mayberry* v. *Pennsylvania*, 1971).

The third fault inherent in this definition is its obvious inconsistancy with current educational philosophy and psychological findings. This aspect is further explored elsewhere in this paper. However, this brief definition and its constitutional ramifications present serious and compelling arguments against its use in a democratic society. A more detailed legal argument is presented by Reitman (1977); therefore it is useful to examine other aspects of the use of corporal punishment. The sections immediately following deal with the incidence and meaning of the practice within the American experience.

The Prevalence of Corporal Punishment

The existence of corporal punishment in American schools poses a disturbing paradox for our citizens and the countries which look to us as leaders in the protection of individual liberties.

All but one major institution in our society has regulations against the use of corporal punishment as an officially approved method of controlling behavior. Currently, 47 states allow or specifically endorse the use of corporal punishment through state legislation as a means of disciplining children in public schools (Friedman & Hyman, 1977). Some states, such as Hawaii, currently are reviewing their statistics and have imposed temporary bans on the use of physical punishment. Maine has a new statute but its meaning is unclear.

Massachusetts and New Jersey have laws against corporal punishment in schools and Maryland has a permissive regulation that leaves the decision to local districts.

The other 47 states and their local districts may vary in determining the appropriate time, place, amount and form of the administration of physical violence upon the bodies of children. Despite differences in due process and severity of punishment, the fact remains that corporal punishment, very often used on small children, is an officially sanctioned form of institutionalized and legalized child absue that is carried on every day in our schools.

Among those countries which have abolished corporal punishment are Poland, Luxembourg, Holland, Austria, France, Finland, Sweden, Denmark, Belgium, Cyprus, Japan, Ecuador, Iceland, Italy, Jordan, Qatar, Mauritius, Norway, Israel, The Phillipines, Portugal, and all Communist Block countries (Reitman, Follmann, & Ladd, 1972; Bacon & Hyman, 1976).

Many so-called primitive societies cannot conceptualize the use of physical force on children. An interesting anecdote reported in the *Wall Street Journal* (Chase, 1975) suggested how others may view us. It seems that a great Nez Perce Indian chief was on a peace mission to a white general. He was riding through a white man's encampment when he observed a soldier hitting a child. The chief reined his horse and said to his companions, "There is no point in talking peace with barbarians. What could you say to a may who would strike a child?" The chief's diagnosis of our society in the 1800's, if only peripherally based on his observations of an accepted practice towards children, was unfortunately and amazingly accurate if one considers the eventual fate of his tribe and that of others. But then our twentieth century society has a long series of "broken treaties" with our children. A brief historical overview will help clarify our attitudes toward children.

A Brief Historical Perspective

Considering the disavowal of corporal punishment by so many societies, it is surprising to many that we continue the practice. However, it is possible that a brief psycho-social analysis might reveal one aspect of the problem. This is a summary of a position more fully detailed by the senior author in several other papers (Hyman, 1976; Hyman & Schreiber, 1975).

Until relatively recent times, most societies and cultures have had to adjust to high rates of infant and childhood mortality. The adjustments resulted in various belief systems which determined the nature and extent of love expended on children. It is hypothesized that the Puritan and Calvinistic tradition of American society, and the medical realities of infant and childhood mortality, resulted in attitudes which are abhorrent to modern thinking concerning children. Estimates of mortality suggest that occurrences of measles, typhoid, smallpox, diptheria, dysentery and respiratory ailments resulted in a third of all infants dying each year (Coles, 1975). For most of those who did survive, childhood certainly had its pleasures, but pleasure was generally considered by religious society as evil. Even if one did not subscribe to the Calvinistic belief that "children were imps of darkness" the historical precedents for maltreatment of children goes back even to the schools of Sumer 5,000 years ago (Radbill, 1974). The most severe practice of corporal punishment leads to murder, and the concept of infanticide or murdering children is not new. As late as the sixteenth century, the belief of inherent evil in children was so strong that Martin Luther, assuming that they must be inhabited by the devil, ordered retarded children drowned (Radbill, 1974).

Corporal punishment is an old and ingrained method of discipline in American homes and schools. Although the general method has been maintained, significant changes must be noted. The practice of corporal punishment was overt and publicly sanctioned from colonial days through the 1800's. The "spare the rod and spoil the child" philosophy of that era was reflected in the schooling of the times. Manning (1959) reports that a schoolhouse, constructed in 1793 in Sunderland,

Massachusetts, had an ominous whipping post built into the schoolhouse floor. Erring young students were securely tied to the post and whipped by the schoolmaster in the presence of their classmates. Manning also reports, in a similar vein, about "paddling" devices being prominent implements of the classroom in the 1800's. Paddling rods, canes, and sticks were placed conspicuously in the classroom, easily accessible to the teacher. He also mentions that regulations were often clearly stated in "the good old days." Violation of these rules resulted in punishment. Some of these century-old rules follow: students were forbidden to borrow or lend, to climb, to carry a pen behind the ear, to leave their seats without permission, or to spit on the floor.

Bakan (1975) suggests that the existence of corporal punishment, in those times, was a method of "beating the devil" out of errant children. This notion was generally supported by the public and the educators of the 1800's. However, there were exceptions and some schools functioned in opposition to this ideology. Manning (1959) mentions a school governed by "the love of its scholars" and another where control was maintained by "sweet reasonableness."

An understanding of the aforementioned, and much else that cannot be presented here, suggests that it is not so surprising that our early Constitution and Bill of Rights did not deal with the rights of children. Children had few (if any) rights.

In fact, it wasn't until about 1900 that American law began to recognize that anyone except the father and husband had any rights whatsoever (Hyman, 1976b). Despite the fact that there currently exist many laws to uphold the rights of children; despite the fact that few Americans believe that children are inhabited by evil spirits or the devil; despite the fact that we all know that children who are malnourished and starving cannot learn, etc.; why is it that we still allow our children to be physically assaulted in our schools, when this can be done legally in no other institution in our society? When one considers historically the problem of hitting and abusing children in our society, it is interesting to note that in 1874, ten years after the founding of The Society for the Prevention of Cruelty to Animals, a group organized the New York Society for the Prevention of Cruelty to Children.

One is led to the almost indisputable conclusion that the majority of Americans really do not like children. This conclusion isn't new (Keniston, 1975), but it is almost always rejected when presented to the average citizen.

The evidence adds up to one of two conclusions. At the least, we are a society which does not understand the difference between what we say we do for our children and what we actually do to them. At worst, we really know that large numbers of children, some in the shadow of our nation's capitol, are deprived of basic human rights. We do not seem to care as long as we assure the health and safety of our own children. This is not to condemn our society, for it is really a matter of cognitive dissonance that has never been resolved. After all, we are surely a nation of optimists who believe in our own good will. And in truth, we periodically evidence that good will through generosity toward an unequaled system of private charities, international relief, and the acceptance of a continuing stream of immigrants and political refugees from the dictatorships and highly controlled countries which now make up much of the world. Despite the continued corruption of our politicians, the avarice of big business, and the seeming never-ending growth of bureaucracy, American democracy still muddles on and cleanses itself periodically. Yet there is a paradox in our view of ourselves and others' view of us. As a society, we are often criticized from within and without as being overly child oriented and permissive; yet in this same society, child abuse accounts for more childhood deaths than any other single factor (Hyman & Schreiber, 1975). Infant mortality is quite high when compared with other western democracies, and if we consider mortality among minority groups alone, it is shockingly high (Coles, 1975).

It should not be surprising that there is evidence that corporal punishment is used in the schools much more extensively with minority and poor children than with those from the white middle class (Bakan, 1970). The major redress that children seem to have is through the courts. Educators, influenced by the often primitive attitudes of the public, have been responsible for relatively little change. Aron and Katz (1971) report that in *Tinker* v. *Des Moines Independent Community School District*, the Supreme Court has recognized that "its view of students' rights parallels the evolution which has taken place in educational philosophy. Traditionally seen as objects without the right to question the regulations that governed their lives or the curriculum they were taught, students are no longer to be viewed as closed-circuit recipients of the educational process." Aron and Katz suggest that the courts consider the enhanced status of the student in their views on the legality of corporal punishment in the schools.

It is extremely significant that this paper represents the first major attempt to include corporal punishment within a national conference devoted to the problems of child abuse. There is a compelling rationale to support the contention that institutionally sanctioned corporal punishment is merely an extension of the social belief that has resulted in the excessive abuse and neglect of so many American children. This is perhaps related to distortions in the conception of a living and changing democracy, where technological growth and knowledge of behavioral sciences often outstrips outmoded concepts of child rearing. It would therefore be helpful to attempt to conceptualize the meaning of discipline, as a function of child rearing, from a political and social point of view.

Conceptualizing Discipline in a Democratic Society

Many current societies claim they offer their citizens some form of democracy, but an examination of the membership in the United Nations will reveal an alarming and increasing number of nations which are one-party systems. In fact, in the increasing number of poor countries where there are few resources and almost no history of human rights, leaders often deride the American concepts of freedom, compassion and tolerance (Gwertzman, 1977). These leaders claim that discipline, harsh and often unyielding, is the only hope for their societies. Those modern western societies which are governed by military and/or powerful religious forces tend to use physical punishment as a means of control. In attempting to understand the relation between cultural mores and the institutionalization of corporal punishment, Babcock (1977) reviewed the literature related to this area. He found that among more complex societies, which have a greater incidence of stealing, slavery, aggressive gods, rigid class stratification and wars, there is a tendency toward more punitive child-rearing practices. In general, the data concerning both primative and contemporary society suggest a significant interaction between restriction of freedom, religious orthodoxy and the familial and institutional use of corporal punishment. Yet

this theory is contradicted in some sense by the total abolition of corporal punishment in schools in most communist societies, including Russia. These societies certainly use physical force on their citizens, but their predominent ideology and leadership, although harsh and cruel, is not controlled primarily by the military. It seems that a domination of religious and military belief more often supports the use of physical, rather than social forces, to combat children's behavior. However, because of a variety of problems, it is inappropriate to suggest causation or issue a strong statement about the correlational nature of the data provided by Babcock. Extensive studies using appropriate statistical techniques such as cluster analysis are needed. For the present, it is possible to deal with the real and implied meaning of discipline and freedom within our own society as these concepts relate to institutionalized methods of control.

There has long been a paradox between *what* we teach in our schools and *how* we teach it. Our schools supposedly reflect the Constitution and Bill of Rights, including the Eighth and Fourteenth Amendments which guarantee due process and relief from cruel and unusual punishment. However, the courts are continually processing cases involving the schools' denial of basic civil liberties to children. Our schools have never really grasped the concept of helping children to internalize controls through learning the use of freedom with responsibility. We teach democracy as content but we have failed to teach it as process, even though some of our most notable educational and psychological theorists have urged this for many decades (Dewey, 1927). Dewey was perhaps one of the leading proponents of applying democratic processes to help children internalize controls through democratic measures. Unfortunately for education, his basic concepts have been distorted to such an extent that the term democratic teaching has come to be linked with a lack of teacher control in the classroom. The concepts of permissiveness, progressiveness, open education and democratic teaching have all become synonymous with softness and lack of discipline. The opposite is being "tough" on the kids, "don't smile till Christmas," and a threat with the paddle if they do not behave. However, the relevant issue concerning discipline in a democracy is not one of degree but rather one of source. Classes in a democratic society should have as much discipline as in authoritarian societies, but in democratic societies the controls should be internalized. In a democratic atmoshpere the attempt should be to reduce anxiety so a child is free to learn, rather than to induce anxiety which is the consequence when punitiveness and guilt are used to control behavior (Sanford, 1956). Further, there is research evidence to support the use of democratic methods of discipline without the resort to force (Hyman, 1964).

Besides certain social and political ramifications of the use of corporal punishment by the schools, there are considerations concerning individuals. Specifically, one may consider the relationship between mental health in a democratic society and the use of force.

Mental Health and Discipline

The public is increasingly becoming aware that the major cause of childhood mortality in America is no longer attributed to disease, but rather to parents (Hyman & Schreiber, 1975). Most child abuse in schools does not result in death or even severe mutilation. However, the basic message, that violence is a way to solve problems, is not lost on the children. Theorists have attempted to understand the reason for our society's attitude toward children and violence, in order to account for the specifics that cause individuals to act punitively enough to render serious and emotional damage to children. Kempe (1962) has theorized that the actions of parent child-batterers are based on modeling. That is, parents who were beaten excessively themselves are the same parents who end up beating their own children. It is possible that many teachers adhere to easily disproved rationales for corporal punshiment merely because they learned this behavior as a result of their own school experiences. Conversely, many teachers we have talked with avoid the use of corporal punishment mainly because of *their* unhappy childhood experiences. Kempe feels that the parents of children who are victims of the "battered-child syndrome" are mentally ill. While corporal punishment applied by teachers is usually not as extreme in intent and result as the aforementioned, its use by teachers who received it as children certainly suggests a rigidity and tendency to "identify with the aggressor" which characterizes the authoritarian personality (Adorno, Frenkel-Brunswick, Levinson, & Sanford, 1950).

Gil (1971) suggests that the use of force on children stems from an inherent cultural belief that violence is an acceptable manner by which to solve problems. His theoretical position would suggest that our society is "mentally ill" in terms of its approach to the use of violence.

Whether one accepts either theory alone or a combination of both, it is important to examine the question within the context of what the statistics on mental health mean to the lives of school children, and to the mental health of their teachers.

Several theorists (Bakan, 1970; Wohlford & Chibucos, 1975) have used the national estimates of mental illness to project its incidence among teachers. Consider the following by David Bakan (1970), a highly respected social scientist and humanist:

> Nor can we be assured of wisdom in connection with the *use* of corporal punishment, even if one were to accept the *principle* of corporal punishment. I have no data on mental health of teachers . . . [But] it is estimated that one in every ten persons is suffering from some form of mental illness; and the probability is one in twenty that any given individual will, at some point in his lifetime, be a patient in a mental hospital. If we add to this the observation of the Celdic Report that approximately one in every ten children is in need of special psychological and psychiatric services, *the probability that either an ill teacher or an ill child or both will be involved in an incident involving corporal punishment is simply too high to allow it to go on at all.* (p. 2)

Wohlford and Chibucos (1975) attempted to make a statistical estimate of mental health among teachers. Using figures compiled by others, they estimate that nine percent of the teachers in the United States are "seriously maladjusted." Projections indicate that there are probably 180,000 teachers who are seriously disturbed and by extrapolation there are 4,500,000 students who are exposed yearly to seriously maladjusted teachers. "Tens of thousands of these teachers may act out their problems with mental abuse, sarcasm, ridicule, etc., if not physical abuse" (Wohlford & Chibucos, 1975, p. 11). This may be an extreme example of the possible effects of corporal punishment, but those on the other end of the paddle are not concerned with statistical rarity. However, why allow these cases to take place if there is not even sufficient educational

rationale for corporal punishment?

The following sections present experimental and naturalistic research on the effects of punishment in learning.

The Educational Effectiveness of Reward and Punishment

The early work of Skinner (1938, 1954), Miller and Dollard (1941), and the later application of their principles to the classroom (O'Leary & Drabman, 1971), offer convincing proof that the systematic use of rewards is a powerful method for changing behaviors. The theoretical and experimental findings on reinforcement theory have resulted in a vigorous movement for the use of behavior modification in the classroom. Unfortunately, as with any other educational innovation, the basic principles have been misused and improperly interpreted. Also, aversive techniques have been associated with the behavior modification movement which only uses positive reinforcement in public school application. The moral and ethical problems of behavior control have raised serious issues which are too complex to discuss here. However, it is noteworthy that a major objection to the use of rewards is the teachers' often stated rationale that it is a form of "bribery." Many teachers feel this should be avoided on moralistic grounds, whereas punshiment is a socially accepted tradition. However, does punishment really work within the framework of the school?

An extensive review by Bongiovanni (1977) casts doubt on the efficacy of punishment under the conditions used in public schools. It is true that punishment results in the temporary reduction of targeted behaviors. In order for punishment to be effective over a long term, it must be extremely harsh and repeated and even then there are enough variables to contra-indicate complete success. In order for corporal punishment to be effective in stopping children's misbehavior, the result would often be hospitalization. The major paradigm for the successful use of punishment is traumatic avoidance learning. This teaches avoidance but also has negative implications for the setting in which it occurs and toward the source of the punishment. Many parents use the argument that it is sometimes necessary to spank their 2-year-olds to keep them from wandering into the street. This may be very effective for a short term, but the spankings will need to become more frequent and severe as the child grows older and develops other needs to cross the street. What really becomes effective is his knowledge of the danger of a car hitting him and his understanding of crossing the street without being hit. Therefore, this frequently used argument is hardly applicable to school learning.

The Possible Effects of Corporal Punishment on Achievement

Unfortunately, an extensive review of the literature has revealed no adequate studies of the effects of corporal punishment on achievement. However, there is a significant body of literature concerning the effects of teacher behavior on various aspects of learning in regard to teacher use of disapproval and criticism. The analogy is appropriate since corporal punishment may be considered an ultimate expression of a teacher's disapproval. Few children believe the paddle-wielding adult who claims that the action hurts the adult more than the child.

Rosenshein (1968) reviewed studies on the relative effects of praise, mild criticism, and strong criticism. Although praise and mild criticism seemed not to differentially effect learning, it was clear from three of the studies reviewed, that strong criticism had statistically significant negative correlations with achievement (Perkins, 1965; Wallen, 1966). This relationship held across socio-economic classes and operated with teachers who otherwise were rated as possessing superior traits in terms of the usual teacher evaluation criteria.

A later, more extensive review by Rosenshein and Furst (1971), considered 17 studies which were based on counts of teacher use of criticism. Criticism in all studies was generally defined as negative statements, the demeaning of students or their actions, and/or the use of threats. Almost all of the studies reviewed indicated a negative relationship between teacher criticism and student achievement. In 10 of the 17 studies, stronger forms of criticism were more clearly negatively correlated with achievement than were milder forms. Rosenshein and Furst (1971) conclude that "teachers who use extreme amounts and forms of criticism usually have classes which achieve less in most subject areas" (p. 51). Although all of the studies cited are correlational, there is certainly enough evidence against the use of severe criticism and threats.

Race, Class and Corporal Punishment

There is evidence that where both suspensions and corporal punishment are used, there is a tendency for a select group of children to be the most frequent recipients of these two extreme forms of discipline (Bakan, 1970; Polier, *et al.*, 1974; Children's Defense Fund, 1974, 1975). Some of the children frequently suspended or paddled are emotionally disturbed and are in desperate need of other help. A great many of the children seem to fall in this group because they are members of black, Hispanic and poor white minorities. The repeated and extensive use of corporal punishment with these groups is particularly insidious as it tends to reinforce their alienation from learning in a white middle-class system. Several areas of research support this contention.

The work of Rosenthal and Jacobson (1968) indicated the possibility of a self-fulfilling prophesy working to the detriment of school children. Although the initial studies they reported in *Pygmalion in the Classroom* have been seriously questioned (Thorndike, 1968), there has since evolved a significant series of studies supporting the original hypothesis (Machowsky, 1973).

Evidence from black ghettoes indicates that some educators, both black and white, believe that hitting is the only thing ghetto children understand (Polier, 1974; Schumacher, 1971). Many teachers working with black children and other groups from low socio-economic backgrounds merely increase the feeling of these children that they are "bad." Further, there is clinical evidence that once a person develops a particular self-image there is a tendency to cling to that concept (Rogers, 1951). Finally, research on locus of control (Battle & Rotter, 1963; Ducette, Wolk, & Soucar, 1972) suggests that lower-class children tend to be "externals." That is, they feel they have little power to control their own destinies. In the schools they feel both intellectually and physically under the complete power of the authorities.

The concepts of the self-fulfilling prophesy or teacher expectancy, and the tendency toward self consistency and the external orientation of lower-class children, are theoretical constructs which suggest that lower-class children, who are paddled frequently, are reinforced for the behavior which the paddling is supposed to eliminate. Teachers expect them to be "bad" and therefore treat them as being "bad." As a result,

the children come to see themselves as "bad" and begin to act consistently as "bad dudes" which may also have high prestige value in some sub-cultures of the ghetto. Since many of these children have external locus of control orientations, especially in regard to the school, hitting becomes just another insult over which they have little control. As a consequence, the bad behavior increases and is reinforced until it escalates to the point where the message is that violence is the final way to solve problems. Often this violence is directed toward teachers, school property or the society which the schools represent.

Research on Corporal Punishment in the Schools

Corporal punishment represents a traditional practice in our society and therefore derives its justification from past beliefs rather than current knowledge. Despite a great variety of theoretical, practical, and related research evidence to contraindicate the use of corporal punishment in the schools, there is currently no known hard data supporting its elimination. Within the present federal framework of research with human subjects, it is improbable that any state or federal funds will be used for experimentally controlled research since it is unlikely that any review board will allow children to be hit as part of a research project. The only definitive answers would be generated by the use of randomly selected experimental and control groups with dependent measures such as achievement, behavior improvement or attitude change. The experimental groups would have to be spanked on some schedule effective enough to compare with non-spanking in the control group. Since this is unlikely, other designs based on correlated studies, matching of subjects within naturalistic settings and survey research will need to be utilized. Suggestions for several approaches will be presented following a presentation of existing studies. An extensive review has revealed that almost all research to date on corporal punishment has been confined to surveys of incidence and attitudes. Some correlational studies have been conducted but the nature of data is severely restricting.

Wohlford and Chibucos (1975) point out how little knowledge we have of the actual occurrence and effects of corporal punishment. They suggest the need for gathering data on the incidence of corporal punishment which would be cross tabulated by grade level and type of punishment. Studies should include separate categories for physical punishment, mental punishment, suspension and expulsion.

Hapkiewicz (1975) presented an excellent paper which contains significant data. His historical research on incidence indicates that in Boston in 1850, "it took sixty-five beatings a day to sustain a school of four hundred." Records indicate that in 1889, 11,768 cases of physical punishment were administered to Boston school children. Whether these rates reflect national norms is not known. It is suspected that the average incidence per child has decreased nationally. Some recent figures indicate a possible recent upsurge, with Dallas reporting an average of over 2,000 cases of physical punishment per month during the 1971-1972 school year.

The amount of corporal punishment may be related to the rate of school vandalism. Adah Maurer, an early and continuing leader against corporal punishment in the schools, found an unreferenced study by Lee Hardy and Virginia Miller conducted in suburban Portland schools in Oregon. This study suggested a correlation between the use of corporal punishment and the rates of vandalism in 13 schools.

The Vermont State Department of Education conducted a state survey of the use of corporal punishment in schools (Corcoran, 1975). Responses from 415 school districts with a total enrollment of 109,294 children are presented in Table 1.

TABLE 1

Reported Incidents of Corporal Punishment In Vermont for the 1974-1975 School Year[1]

Grade	Girls	Boys	Total	Reason for Corporal Punishment		
				Obedience	Correction	Control
K	0	1	1	0	1	0
1	3	29	32	9	9	14
2	4	15	19	2	9	8
3	3	20	23	6	8	9
4	4	41	45	4	27	14
5	2	24	26	6	8	12
6	5	50	55	17	22	16
7	1	30	31	4	20	7
8	0	40	40	8	20	12
9	1	11	12	1	6	5
10	0	3	3	?	0	0
11	0	1	1	0	1	0
12	0	0	0	0	0	0
Total	**23**	**265**	**288**	**60**	**131**	**97**

[1] Corcoran, C. Report of suspensions and corporal punishment. Vermont State Department of Education, July 29, 1975, p. 2.

The data presented in Table 1 do not reveal the frequency of corporal punishment per child or by particular teachers. This limits data interpretation. With that limitation in mind, the figures indicate that one child out of every 379 could have been a recipient of corporal punishment. The greatest incidence is for correction, the least justified in terms of research evidence. Also, girls receive approximately 8% of the paddlings, most of which occur in grades one through eight. The distribution of paddlings seems almost random although 52% occur in grades five through eight and 41% in grades one through four.

In 1968, the Pittsburgh Board of Education commissioned a survey of corporal punishment to be conducted by its Office of Research (Shaffer, 1968). Their data are reported in terms of percentage response to a 21-item questionnaire distributed to teachers through their building principals. A 72.8% return yielded interesting data which is too extensive to present here. However Table 2 provides some idea of the frequency of the use of corporal punishment.

TABLE 2

Percentage Responses of Pittsburgh Teachers to Corporal Punishment Survey in 1968[1]

Question	N	K	1-4	5-8	9-12	Total
Have you ever paddled or hit any students in the classroom?						
Never	108	45	10	60	65	38.6
Once a year or less	67	40	10	20	20	23.9
Several times a year	74	10	65	15	5	26.4
Every month or more	25	0	15	5	5	8.9
No response	6	5	0	0	5	2.2
Total	**280**	**100**	**100**	**100**	**100**	**100.0**
When did you last paddle or hit a student?						
Within the past 2 months	65	5	60	15	15	23.2
Within the past 6 months	25	15	5	5	5	8.9
Within the past year	37	5	25	15	0	13.2
Within the past 10 years	33	10	0	25	15	11.8
Within the past 15 years	4	0	0	0	0	1.4
Not applicable	101	60	5	40	60	36.1
No response	15	5	5	0	5	5.4
Total	**280**	**100**	**100**	**100**	**100**	**100.0**

[1]Shaffer, S.M. **Corporal punishment survey**. Pittsburgh, Pennsylvania, Board of Education, Office of Research, June 13, 1968.

The data indicate that 60% of the respondent teachers hit children at least once during the year and it is clear that most of this occurs in grades one through four. Over 60% of the teachers, grades five through twelve, reported they never paddled children. The analysis of the other data by Shaffer indicates that 61% of the teachers wanted to allow corporal punishment to be administered at their own discretion. Lest this be judged as a belief in the effectiveness of corporal punishment, 66% felt that teachers needed in-service training to provide for more effective ways of dealing with problem children. Apparently teachers want more freedom to use paddling less. Another finding was that a significantly greater number of paddlings occurred in large schools receiving Title I funds as compared to large schools not in that category. The implication, although not stated, is certainly clear. Schools receiving Title I funds are those with a large population of disadvantaged and minority children. This finding supports previously stated evidence suggesting poor children get hit most (Polier, *et al.*, 1974). However, Shaffer points out that most classroom paddling occurs in large Title I schools in grades one through four, with 38% of the teachers having less than three years teaching experience, which is well below the district average. Also, 40% of the teachers in small Title I schools have less than three years experience. Whatever the reason for the increased paddling, the effect on the children probably remains constant.

There are many available techniques for decreasing the use of corporal punishment as was demonstrated in a research project at an inner-city middle school in Houston, Texas, with a population of 92 low socio-economic black children (Sanders & Yarbrough, 1971). The school, which had a high rate of violence and corporal punishment, attempted to reduce discipline problems and the use of corporal punishment by modifying four parameters. They decreased alienation associated with large schools; they worked on constructive attitude change; they increased services to disturbed children and they adjusted the curriculum to the children's needs. Rather than using one theoretical approach for in-service training, they borrowed from many orientations which offer approaches to learning without physical punishment such as transactional analysis, reality therapy and values clarification. After two years, the use of corporal punishment was reduced 93%. Unfortunately, all of the data were not available in the article and since Houston is one of the corporal punishment capitals of America, it would be important to know the actual number of incidents represented by the remaining 7%.

The need for research on corporal punishment in schools is obvious, but it is also necessary to know the attitudes of others involved with the education of children. Two studies have been completed recently.

Reardon and Reynolds (1975) completed what is probably the best designed survey of corporal punishment to date. This survey was requested by the Pennsylvania State Board of Education to clarify questions concerning beliefs about the corporal punishment administered by educators, parents and school board members. Besides collecting local school districts' written policies regarding corporal punishment, a survey was mailed through six major educational associations to obtain responses from various samples.

Of the 292 school districts responding, 269 indicated official approval for the use of corporal punishment, 16 prohibited it and seven were undecided. The actual guidelines varied from not allowing corporal punishment to be witnessed by other pupils, to various due process procedures. About one third of the responding districts had no guidelines, apparently leaving the practice up to the judgment of individual teachers.

The questionnaire was designed to tap attitudes and beliefs concerning corporal punishment. The results are presented in Table 3 (see page 8).

The result of this differentiated audience response indicates that on almost all items there is essential agreement. Except for correlations between students and principals ($r = .53$), and students and school board presidents ($r = .35$), correlations of agreement were extremely high between all groups. In fact, agreements between all groups, excluding students, suggests there is little significant difference. This is summarized in terms of favorability towards corporal punishment in Table 4.

TABLE 4

Personal Attitudes of the Six Groups[1]

	% Favor	% Opposed	% Not Sure
School Board Presidents	81	12	6
Principals	78	13	8
Administrators	68	25	6
Teachers	74	16	9
Parents	71	21	7
Students	25	51	25
Total	**67**	**22**	**11**
Total (Adults)	**75**	**17**	**8**

[1]Reardon, F.J. and Reynold, R.N. **Corporal punishment in Pennsylvania**. Harrisburg, Pa.: Pennsylvania State Department of Education, 1975, pp. 7-8.

TABLE 3

AGREEMENT (A) AND DISAGREEMENT (D) TO QUESTIONS REGARDING CORPORAL PUNISHMENT FROM THE PENNSYLVANIA STUDY[1]

Item	N=558 Parents		N=1,278 Principals		N=461 Administrators		N=972 Teachers		N=216 School Board Presidents	
	% A	% D	% A	% D	% A	% D	% A	% D	% A	% D
Corporal punishment will cause changes in behavior.	74.9	17.5	75.6	15.7	76.0	17.8	75.8	13.6	75.0	17.6
Corporal punishment builds a student's character.	35.5	50.1	30.9	50.6	32.3	52.3	29.5	49.3	45.1	42.8
Students learn self-discipline from corporal punishment.	54.9	38.8	52.3	37.3	49.1	42.9	49.7	37.7	61.9	29.8
Discipline cannot be maintained without corporal punishment.	43.8	50.7	36.7	55.9	37.8	55.1	38.9	52.9	58.4	36.9
Corporal punishment is less harmful than other forms of humiliation.	57.0	27.5	61.3	25.0	61.6	25.3	58.4	23.6	67.3	21.8
Teachers use corporal punishment when they have no other way to respond to difficult situations.	63.8	26.0	62.1	30.8	62.9	29.7	64.9	26.6	57.8	35.6
Corporal punishment is the only thing that will work with some students.	76.0	20.4	70.3	23.7	66.4	28.4	76.8	17.3	81.9	14.9
Student attitudes are generally made worse by corporal punishment.	28.8	59.4	24.1	66.0	31.7	60.8	19.8	67.6	15.8	76.8
Most of the people in the community served by my school support the use of corporal punishment.	36.9	23.9	65.6	19.4	62.0	14.1	42.0	23.4	73.2	11.7
Complete elimination of corporal punishment would have serious consequences.	73.1	20.1	71.8	20.3	67.0	24.5	76.2	14.3	79.2	14.9
Corporal punishment is not effective unless administered at the time of the incident.	83.5	12.0	74.1	17.7	69.6	21.4	81.5	12.7	83.3	13.5
Some students receive corporal punishment while others do not for the same offense.	72.1	12.1	63.7	25.3	73.7	16.6	68.5	19.2	66.7	20.2

[1] Reardon, F.J. and Reynold, R.N. Corporal punishment in Pennsylvania. Harrisburg, Pa.: Pennsylvania State Department of Education, 1975, pp. 7-8.

Everyone seems to strongly favor corporal punishment except those who receive it. Perhaps the best explanation for the attitudes of those who receive corporal punishment is given in another study by Elardo (1977) who interviewed elementary school children. Most said that some kids would prefer paddling to other forms of punishment in order to "get it over with." They also felt it did no good in changing behavior. One articulate child said, "Sometimes you get accused falsely of doing something. If you get paddled and later prove you did not do it, you can't get unpaddled. But if you lose an activity, maybe by the time the activity should occur you can prove your innocence and still get your activity" (Elardo, 1977, p. 18).

Reardon and Reynolds (1975) present a great deal of data which cannot be discussed within the limitations of this paper. They conclude that the actual use of corporal punishment is not strongly advocated because of the many qualifying and constraining statements and beliefs expressed by the re-

spondents. However, it is clear that most respondents, with the exception of the students themselves, want corporal punishment to be available.

Respondents indicated they believe in the use of corporal punishment for the following reasons (Reardon and Reynolds, 1975):

> It will cause changes in behavior. Students learn self-discipline from it. It can be less harmful than some other forms of humiliation. There are situations where it is the most appropriate technique. It is the only thing that will work with some students. There is no harmful effect on student attitudes. Its elimination could seriously affect the learning atmosphere in the school. (p. 24)

All these reasons can be shown to have little basis in fact and are typical of the common misbeliefs presented in another section of this paper. A major conclusion of the study is that most respondents recognize the complexity involved in decisions regarding corporal punishment and are reluctant to accept standard guidelines for its use.

In 1973, the California State Assembly commissioned a study which examines the practice of corporal punishment in that state. The results of the study are based on the responses of almost 1,000 school districts to a questionnaire (California State Assembly, 1973). Of major interest is the fact that slightly over 50% of the school districts use the paddle, approximately 35% use the hand and the remaining districts use belts, light straps, yardsticks, or other implements not described. In 1972-1973, there were slightly more than 46,000 cases of corporal punishment reported. The distribution of cases by grade level was as follows: 1) primary, approximately 21%; 2) intermediate, approximately 32%; 3) junior high, approximately 32%; and 4) high school, approximately 5%. Approximately 10% of the reported cases of corporal punishment were not identified by grade level. As in other studies, boys were found to receive corporal punishment more often than girls (95%). Thirty-one percent of the corporal punishment was received by minority children. Most districts reported they would not use corporal punishment if parents objected.

If corporal punishment is desired as an alternative disciplinary method and if the support for the approach is fallacious, it seems reasonable that educators and parents should be informed of the data available regarding the use of punishment, etc. Since pyschologists have conducted the bulk of the research on learning and punishment, it would seem logical that they might be the best informed. However, a study of psychologists' attitudes and practices regarding spanking by Anderson and Anderson (1976) revealed what might be considered surprising information.

The investigators mailed a 21-item questionnaire to 120 active members of the Northwestern Pennsylvania Psychological Association. Forty-nine percent responded. The responses indicate the following (Anderson and Anderson, 1976):

> It was found that the majority of the respondents spank their own children, felt that children need to be spanked sometimes and have no regrets about spanking their own children. About one half of those questioned felt that school personnel should have the option to spank children in school. Attitudes toward spanking were related to the psychologists' contact with parents and present employment, but were unrelated to the psychologists' age, parenting status, education or sex. (p. 46)

The results, as with the previous study, are somewhat unclear because of the many qualifying statements by respondents. For instance, many indicated that they spanked infrequently and most often to teach the child to avoid physical harm. The majority were not willing to entirely reject the use of spanking in parent-child relationships but about half (51%) felt school personnel should have the option for spanking. The investigators question whether the responses to the questionnaire are based on the psychologists' own experiences as children or their training in the principles of learning.

It is obvious that we are beginning to collect a data base on the incidence of corporal punishment. It is also obvious that reporting practices leave much to be desired. The data presented suggest that corporal punishment is a deeply ingrained practice in our schools. Research directions must shift towards a greater understanding of the meaning of the data collected. No studies, with the exception of the Pennsylvania effort, attempt to adequately utilize appropriate statistical techniques to examine correlations between respondents in order to determine theories for prediction of corporal punishment practices. It is obvious that direct naturalistic studies are needed to determine correlations between behavior, achievement and attitudes in schools which use corporal punishment as compared with those which don't. Since the use of random assignment to groups is virtually impossible, it will be necessary to return to the practice of matching groups in order to use corporal punishment as the independent variable. There are many other research needs, but even more important is to examine the use of alternatives. This is the purpose of the final section of this paper.

Popularly Accepted Beliefs and Some Alternatives for Corporal Punishment

Clarizio (1975) explores four of the most common myths about corporal punishment in the schools. The first belief is that physical punishment is a "tried and true" method. "It is good for students. It helps them develop a sense of personal responsibility, learn self-discipline and develop moral character" (Clarizio, 1975, p. 3). Bongiovanni (1977), in his review of the literature on punishment, disproves the premise that punishment is a tried and true method in the school setting and emphasizes that the necessary prerequisites for the effective use of punishment are often not met in this natural setting. Clarizio restates Feshbach and Feshbach's (1973) suggestion that the degree of physical punishment used by parents is positively correlated with various forms of psychopathology, particularly delinquency and acting-out behavior. Some studies (Buttons, 1973; Welsh, 1974) have derived a near perfect correlation between the amount and the severity of physical punishment suffered by a child from ages 2 to 12, and the amount and severity of adolescent anti-social aggressiveness displayed by the same child. In the former cases, the lesson was not one of self-discipline.

Clarizio refers to the modeling phenomenon (Bandura, 1973) to explain the relationship between physical punishment and increased aggression without promotion of good internal control. The punisher is actually modeling a very aggressive interpersonal strategy to a child who learns that it is permissible to aggress towards those of lesser power, status and prestige.

The second belief discussed by Clarizio is that "occasional paddling contributes substantially to the child's socialization." Here the crux of the issue lies in refuting the fact that infrequent or "judicious" use of corporal punishment is beneficial

to the child. Clarizio stresses that to be effective, punishment (unless traumatic) must be applied immediately and consistently. Yet in the school setting, behavior that one wishes to eliminate can hardly be monitored closely enough to be punished each time it occurs. Therefore, the so called "judicious" and infrequent use of corporal punishment results in a situation in which the undesired behavior is intermittently reinforced. Such schedules of reinforcement result in the continuation of the behavior. Thus, Clarizio concludes that instead of weakening the undesirable response, occasional paddling may actually strengthen the behavior that is intermittently reinforced.

While Clarizio argues logically against occasional use of corporal punishment, it is important to accentuate the operative word *occasional*. Many believe corporal punishment is only seldomly used. Previous sections of this paper indicate that corporal punishment is not used "only occasionally." Even the reported figures are probably an underestimation. Few superintendents can document occurrences or results of corporal punishment but it is felt by many professionals that the administration of corporal punishment appears in clusters. Some teachers hit many times a day; others never do. The previously stated figures from the Dallas school administration show an average of more than 2,000 reported incidents of physical punishment a month in 1971-1972 (National Education Association (NEA), 1972). This cannot be considered seldom in the most extended sense of the word.

The third belief is that "corporal punishment is the only recourse in maintaining order." The statement that corporal punishment is the only method some kids understand, really only means that some kids have not been exposed to other more constructive forms of discipline. It appears that physical punishment may be the only thing some teachers understand. The fact that physical punishment has no dollar-cost may make it attractive to teachers in schools with limited resources (NEA, 1972).

Clarizio (1975) points out that in school systems that prohibit the use of corporal punishment both teacher and student survive nicely without it. Consider New Jersey and Massachusetts which have banned corporal punishment for many years. Effective alternatives do exist and are already in use in those two states and also in many school districts throughout the nation.

The NEA Task Force (1972, p. 27-28) prepared the following list of techniques for maintaining discipline without inflicting physical pain on the student:

Short Range Solutions

The first step that must be taken is the elimination of the use of corporal punishment as a means of maintaining discipline. Then the ideas below can be used as temporary measures to maintain discipline while longer-range programs are being put into effect.

1. Quiet places (corners, small rooms, retreats)
2. Student-teacher agreement on immediate alternatives
3. Teaming of adults—teachers, administrator, aides, volunteers (parents and others)—to take students aside when they are disruptive and listen to them, talk to them, and counsel them until periods of instability subside
4. Similar services for educators whose stamina is exhausted
5. Social workers, psychologists, and psychiatrists to work on a one-to-one basis with disruptive students or distraught teachers
6. Provision of alternative experiences for students who are bored, turned off, or otherwise unreceptive to particular educational experiences:
   a. Independent projects
   b. Listening and viewing experiences with technological learning devices
   c. Library research
   d. Work-study experience
7. In-Service programs to help teachers and other school staff learn a variety of techniques for building better inter-personal relations between themselves and students and among students:
   a. Class meetings (Glasser techniques)
   b. Role playing
   c. Case study—what would you do?
   d. Student-teacher human relations retreats and outings
   e. Teacher (or other staff)—student-parents conferences
8. Class discussion—of natural consequences of good and bad behavior (not threats or promises); of what behavior is right; of what behavior achieves desired results; of causes of a "bad day" for the class
9. Privileges to bestow or withdraw
10. Approval or disapproval
11. Other staff members to work with a class whose teacher needs a break

Intermediate-Range Solutions

1. Full involvement of students in the decision-making process in the school
2. Curriculum content revision and expansion by student and staff to motivate student interest
3. Teacher in-service programs on new teaching strategies to maintain student interest
4. Alternate programs for students
5. Drop-out—drop-back-in programs
6. Work-study programs
7. Alternative schools within the public school system
8. Early entrance to college
9. Alteratives to formal program during last two years of high school
10. Few students per staff member so that staff can really get to know students
11. Adequate professional specialists—Psychiatrists, psychologists, social workers
12. Aides and technicians to carry out paraprofessional, clerical and technical duties so that professional staff are free to work directly with students more of the time
13. A wide variety of learning materials and technological devices

Long-Range Solutions with Other Agencies

1. Staff help from local and regional mental health and human relations agencies

2. More consultant staff to work with individual problem students
3. Long-range intensive in-service programs to prepare all staff to become counselors
4. Mass media presentations directed to both the public and the profession on the place of children in contemporary American society
5. Some educational experiences relocated in business, industry and social agencies
6. Increased human relations training in preservice teacher education and specific preparation in constructive disciplinary procedures

According to the Task Force on Alternatives to School Disciplinary and Suspension Problems of South Carolina (1976), studies have shown that there are many factors that cause students to become discipline problems and many are not school related or influenced. Many feel that a large portion of the conduct problems are rooted in academic failure and dissatisfaction with instructional or administrative demands. Following are some strategies this Task Force underscored as most important for reducing discipline problems:

1. *School Orientation*— According to the Task Force, misunderstanding or lack of understanding frequently causes students to become disciplinary problems. Students and parents cannot be expected to support and comply with regulations without knowledge of the program. Orientation of students and parents should be provided concerning school codes of conduct, curriculum, administrative procedures for handling discipline problems, special services, procedure for requesting parent-teacher conferences, grading system, schedule, calendar, and extracurricular activities.

2. *Regular Attendance*—Students who attend school create fewer disciplinary problems than students who are absent habitually. They suggest an accurate system of student accounting should be followed and parents should be advised of absences. Students who attend regularly should receive appropriate recognition.

3. *Teacher Inservice Training*— Teachers desire and should receive training in appropriate management techniques.

4. *Relevant Curriculum*— Students who are interested in school and experience academic success seldom create disciplinary problems.

5. *Codes of Conduct*—The group states that school rules must be reasonably clear and concise. School rules should be designed to assure the orderly operation of the educational system rather than reflecting personal or arbitrary preferences of school authorities.

6. *Time-Out Room*

7. *Guidance Service*

8. *Recruitment and Assignment for Teachers*—The Task Force recommends using procedures for hiring teachers which insure the employment of qualified and effective teachers and providing for a subsequent orientation program for teachers regarding the operation of the school.

Citizens for Creative Discipline conducted a survey among a group of South Carolina educators and found that good teachers also tend to be creative disciplinarians (Survey: Good teachers, 1976). The survey reports that the educators identified the following techniques as most successful in preventing disciplinary problems: 1) consistent application of rules (85%); 2) respect for students (57%); 3) strong administrative leadership (84%); 4) small number of students per teacher (76%); 5) teacher skill at diagnosing academic weakness and prescribing instruction (63%).

In this same survey, the educators polled described a particular teacher or a practitioner of creative discipline in the following terms: 1) the teacher respects the students; 2) the teacher is creative in his/her approach to teaching; 3) the teacher plans carefully for his/ner class and keeps students involved in active and interesting work; 4) the teacher is adept at developing appropriate curriculum involvement.

While good program planning, relevant curriculum, and concerned and sensitive teachers are all important ingredients in formulae to thwart the use of corporal punishment; one must consider the idiosyncratic dimension of each problem situation. Often the alternatives are suggested by the very nature of the offense. In Hume, Missouri a reasonable option for the boys forced to eat cigarettes as punishment might have been to do a project using the American Cancer Society's material on smoking, viewing film strips, writing a report, or doing some other task which would be suitable to the children's needs, interests and ability.

The fourth belief discussed by Clarizio is that individuals involved with schools favor the use of corporal punishment." Citing a study by Patterson (1974), Clarizio documents that no more than 55-65% of school officials see corporal punishment as an effective technique and favor its use. Further, Clarizio asserts that one third of the parents, and generally most students, do not view physical punishment as an effective way to make students behave in school.

There are admittedly a number of students who do accept or even openly favor corporal punishment as a means of correcting behavior. After the cigarette eating incident in Hume, the school's student council president announced that a broken rule requires punishment. He emphatically pronounced that he, and many others, knew that this punishment discouraged any further offense. Two weeks later he was caught with tobacco (*Hub*, 1976). This example serves to cast doubt upon students' stated reasons for accepting, or even favoring, corporal punishment. It also stresses the impotency of corporal punishment in extinguishing undesirable behavior.

The Task Force report of the NEA indicates that there are several reasons why students prefer corporal punishment to other alternatives. For some it is an easy way out—it does not require much time or any real change in behavior. For others it is a good way to prove and openly demonstrate toughness and endurance. Still others feel guilty about offenses and find relief in punishment. None of these reasons has ever been educationally defensible.

Those parents who endorse the use of physical punishment in schools often use this type of discipline in the home; but it is unsuccessful, it only produces children who misbehave in school (Clarizio, 1975). Although this is an era of honoring parent requests; educators, as professionals, should accede only to those demands which are educationally sound. Most parents who call for corporal punishment really mean they want the school to educate their children by any means necessary (NEA, 1972). Professional educators should be providing alternatives for these parents to model.

An important derivation of the fourth popularly accepted belief was brought out in the NEA Task Force report. Support of corporal punishment by the schools lends the prestige of the educational establishment to the practice and encourages people outside the school to feel that they are justified in physical assault on children. According to David Gil (1971), abolishing punishment in schools would begin lessening the incidence of child-beating elsewhere.

In addition to Clarizio's four myths, there are three others that deserve mention. One is the prevailing notion that corporal punishment is necessary because the teachers have to be protected. However, the NEA Task Force report states categorically that corporal punishment is no more effective as protection, than as a means of improving behavior. Ernest Norms, quoted in the NEA Task Force report, poignantly suggests that the adolescent against whom protection is sought will respond not with unruliness in the classroom, but with a zipgun in a dark hallway. Certainly this protection argument loses its vitality in the light of the figures presented in the Pittsburgh survey (see Table 2). In Pittsburgh the highest incidence was in grades one through four. Could even the most mature fourth grader represent a real threat to the most diminutive teacher? If protection were a real issue we would certainly expect the figures to reveal a high incidence in the high schools.

Another falsity is the conviction that corporal punishment is only used as a last resort. Maurer (1977) feels this is subtle deception because referrals to the school counselor, the psychologist and to mental health agencies are scheduled after the "last resort." The NEA Task Force reported that school regulations often require educators to make referrals. However, the regulations are commonly ignored and considered "too much trouble."

Finally, the impression must be corrected that corporal punishment is allowed under the old common law doctrine of *in loco parentis*. Until recently, *in loco parentis* had been used as a rationale to curtail the rights of parents to make decisions about their children. The result has been litigation in many cases and the replacement of eroding state statutes with principles of fair treatment for all students.

Much of what has been presented on alternatives to corporal punishment is based on the experience of educators. However, there is a growing literature in educational research that offers alternatives based on empirical findings. Jacob Kounin (1970) has discovered common mistakes made by poor classroom managers. Hyman (1972, 1976) has developed Kounin's work into a system for training teachers to be better managers in order to avoid the need for paddling. Further research by Schultz and Hyman (1971) suggests certain personality and teacher concepts which affect teachers' management style as measured by Kounin's system. Marino (1975) trained teachers to recognize their ineffective management techniques. He was able to demonstrate improved management and thereby less need to rely on the "last resort."

Research on the democratic classroom (Hyman, 1964) has demonstrated that teachers using clearly defined techniques help children to internalize controls in the classroom setting. By sharing in goal setting and accepting freedom with responsibility, the need for corporal punishment is eliminated.

This section of the paper has demonstrated that there are many alternatives to corporal punishment. It is true that techniques must be matched with teachers and situations. However, the variety of alternatives available is probably never exhausted by most users of corporal punishment either because of their lack of knowledge or because of beliefs based on the mythology described by Clarizio (1975).

Conclusion

This paper represents an initial attempt to bring together a great deal of information concerning corporal punishment. The establishment of the National Center for the Study of Corporal Punishment and Alternatives in the Schools has made it possible to collect all of the literature on the subject and to begin a series of studies. However, since the mass of data presented contra-indicates the use of corporal punishment, surely the burden of proof should be assumed by those who favor its use. The authors await the publication of such a document.

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An Analysis Of State Legislation Regarding Corporal Punishment In The Schools

a paper presented by

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Physical punishment directed toward children is deeply rooted in Judeo-Christian beliefs. The often used phrase, "spare the rod and spoil the child," is symbolic of a long-standing belief in the necessity of physical punishment as the most efficacious method of child discipline. Further, there is an implication that the avoidance of such methods will eventually prove harmful to the child. This doctrine appears to be partially embedded in the Christian belief of the innate evilness of man.

It is well known historically that people who exhibited inappropriate or "bad" behavior were believed, until relatively recently, to be inhabited by evil spirits. Whether they were misbehaving children or adult schizophrenics, the treatment was often to beat the devil out of them.

The eminent child psychiatrist Robert Coles (1975) describes how the Puritans saw evilness everywhere, including the minds of children. Children who spoke to their elders with reverence and respect attested to the ability of their parents, nursemaids, and educators to cope with and master the nature of the child.

The development of laws pertaining to the education of children has historically been relegated to state and local legislators. Because of the doctrine of the separation of powers, federal courts have been loath to interfere with local educational issues. It has always been the burden of the state government to legislate for the schools, and therefore to legislate for the permissibility of corporal punishment. However, these state statutes are required to be within the guidelines of common law as defined by federal courts.

There are two main areas in which the constitutionality of corporal punishment is argued (Reitman, Follman, & Ladd, 1972). One focus, that corporal punishment is cruel and unusual, is based on the Eight Amendment to the Constitution. This argument rests on a number of grounds, most importantly the concept that the application of physical punishment to children violates democratic freedom and the dignity of the individual. The other argument, based on the Fifth and Fourteenth Amendments to the Constitution, is that corporal punishment violates *due process* of law. This argument focuses on both substantive *due process* and procedural *due process*. Under the substantive issue it is argued that corporal punishment is often used in an arbitrary and capricious manner and does not bear a reasonable relationship to a societal purpose. Under the procedural issue it is argued that before being punished, one is entitled to certain procedural safeguards, such as notice of charge, right to a fair hearing, etc.

The U.S. Supreme Court took an important definitive stance on corporal punishment when it affirmed the lower court's decision in *Baker* v. *Owen* (1975). The Court in effect said that *reasonable* force by school officials in an effort to maintain order is permissible, and although parents have the right to control the disciplining of their children, the state has a countervailing interest in maintaining order in the schools, an interest which is sufficient to allow for the use of a reasonable amount of corporal punishment. The Supreme Court did not, in 1975, act to abolish the use of corporal punishment. Nor is it expected that now, as the case of *Ingraham* v. *Wright* (1976) rests before the High Court, will corporal punishment be abolished. It appears that the issue to be decided upon in this case is whether excessive punishment was administered.

Under current common law there are no constitutional barriers to the use of corporal punishment and therefore states are free to legislate on the permissibility of corporal punishment within their own schools. To date, there has been little examination or compilation of what individual states have legislated. Brown (1971) made a cursory examination of the state statutes regarding corporal punishment as an adjunct to her exploration of the rationale behind various forms of school discipline. More recently, the New Jersey Department of Education (1976) commissioned a study which examined the wording in all state legislation concerning corporal punishment. There has not, however, been a study which has examined the scope and intent of legislation.

Purpose

The purpose of the present study was to assess current state legislation and attempt to discover the intent and meaning of the laws by use of content analysis. Toward this end, we attempted to answer the following questions:

1. Which states allow corporal punishment, which do not allow it and which are silent on the issue?
2. In those states where corporal punishment is permitted, who may inflict it?
3. When corporal punishment is allowed, what procedures are followed in its administration?
4. What type of language is used to justify or limit the use of corporal punishment?

Method

In order to obtain data regarding laws concerning corporal punishment, letters were sent to the Commissioner of Education (or his equivalent) in each of our 50 states. In those letters we described ourselves as representing a Temple University based organization whose task it was to study educational and psychological aspects of corporal punishment in the schools. We then asked them to forward to us those laws in their states which apply to corporal punishment.

Results and Discussion

At the time of this writing, responses to our inquiry had been received from 36 states. Pertinent information on the remaining 14 states was obtained by consulting the New Jersey survey of 1976. This has imposed some limitations on the analysis of our results. First, we must assume that New Jersey's information is accurate. Another limiting factor is that their analysis of results is significantly different from ours. Thus,

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the only information we were able to abstract was the legality of corporal punishment and the identification of those empowered to inflict such discipline.

A detailed graphical analysis of our results is presented in Table 1.

Four states have statutes which limit the use of corporal punishment in schools—Maine, Maryland, Massachusetts and New Jersey. However, in only two of these states, New Jersey and Massachusetts, is the prohibition functional. The New Jersey law reads, "No person . . . shall inflict or cause to be inflicted corporal punishment upon a pupil . . ." (New Jersey, 18A: 6-1). In Massachusetts, the prohibition is equally clear and it reads, "the power of the school committee or of any teacher or other employee or agent of the school committee to maintain discipline upon school property shall not include the right to inflict corporal punishment upon any pupil" (Massachusetts, C.71, S.37G).

In the other two states which limit the use of corporal punishment the effect of legislation is not as restrictive. Maryland's statute is highly unusual. One bylaw makes reference to the State Board of Education abolishing corporal punishment as a statewide disciplinary measure. Another bylaw found in a description of public school laws implies that regardless of any rules or regulations made by the State Board of Education, corporal punishment is not prohibited in 21 counties. There are only 24 counties in Maryland.

Maine, in a new criminal code which became effective May 1, 1976, mandates that a student cannot be punished corporally, yet physical force may be used to bring a disturbance under control or to remove a student who is causing a disturbance. In a memorandum issued from the State Attorney General's office (State of Maine, 1976), it is indicated that what constitutes a disturbance must be dealt with on an individual basis. Thus, in New Jersey quelling a disturbance would involve breaking up a fight but not hitting a child who is being noisy. In Maine, it is not as clear. Despite the prohibition of corporal punishment and despite newspaper headlines which proclaim its abolition, it appears that corporal punishment may still be an acceptable method of child discipline. Although an analysis of municipal legislation is not a part of this study, the District of Columbia and many other large cities also prohibit corporal punishment.

Twelve states are silent on the issue of corporal punishment. That is, no mention of physical punishment of school children is made in any statute of these states. The New Jersey survey (1976) reveals that of these 12 states, the only one in which corporal punishment is not practiced is West Virginia.

Thirty-three of the remaining 34 states legally authorize the use of corporal punishment. In the one remaining state, Hawaii, permission to use corporal punishment has been temporarily suspended. This suspension was in response to the ambiguity of a recent statute. Of the other 33 states, 29 make reference to who may inflict the punishment. In our study we divided the individuals allowed to inflict punishment into four categories: administrators (including principals, superintendents, etc.), teachers, other certified employees, and non-certified employees. Teachers are given explicit permission in 28 of the states, administrators in 22 of the states, and other certified employees in 7. This distribution would appear to be consistent with the concept of *in loco parentis*, wherein the teacher is considered the parent substitute. Eight states either clearly state or else make indirect reference to this concept when describing the permissibility of corporal punishment. It is of interest to note that two states, New Mexico and South Dakota, give punishment privileges to non-certified employees. New Mexico allows any employee to inflict punishment. South Dakota permits anyone who is supervising the children while they are attending a school function away from their school, as well as school bus drivers, to administer punishment.

The next area explored is restrictions placed on the administration of corporal punishment. The most frequently used limitation, one used by 10 states, is that the punishment must be reasonable. Two states require that each incidence be approved beforehand by the principal, and six say that either the principal or another teacher must be present as a witness. One state, Montana, requires that the parents be notified beforehand, yet the parents do not seem to have the opportunity to deny permission. Nevada and Florida state that the parents must be notified afterwards. What we have here are certain procedural safeguards which attempt to minimize the inherently capricious nature of corporal punishment. Three states have other interesting limitations which are worth noting. New York requires that the teacher not use deadly force, Montana maintains that the punishment must be inflicted "without undue anger" (Montana 75-6109), and Nevada does not allow the child to be hit in his head or face.

A primary purpose of this paper was to determine by content analysis the rationales behind the use of corporal punishment in the states which endorse its use. Toward this end, six categories of punishment were identified: for purposes of restraint, for correction, to maintain discipline, to promote the welfare of the child, to quell misbehavior, and to promote obedience.

Of the states from which we received direct information, 20 legally authorize the use of corporal punishment. Nineteen of these states make mention of those times when corporal punishment may be used. South Carolina, the state which does not, simply states that "the governing body of each school district may provide corporal punishment for any pupil that it deems just and proper" (South Carolina, 1975). From this statement one may infer that a teacher may physically punish a child at his or her whim.

The word "restraint" is mentioned in the statutes of four states. Although the concept of restraint carries with it the implication of self-defense, and as such would not be contained in the most widely used definitions of corporal punishment, no state uses the word "restraint" by itself. Two states combine restraint with correction, where correction is undefined. Altogether, four states use the word "correction" in statutes. Restraint is also used in combination with the maintenance of discipline in both North Carolina's and New Mexico's statutes.

It should be noted that the "maintenance of discipline" is the most frequently used reference in statutory discussions of corporal punishment. When we include the "maintenance of control," a term used by Florida, and the "maintenance of orderly conduct," a term used by Montana, a total of 14 states mention it as a justification for the use of corporal punishment. Another reference to discipline is in Vermont's statute which indicates that it may be used for ". . . the purpose of securing obedience on the part of any child . . ." (Vermont, No. 1161).

Based perhaps on the Biblical belief that the devil must be beaten out of the child, three states indicate that corporal punishment may be administered when such is necessary to

TABLE 1: CONTENT ANALYSIS OF STATE LEGISLATION REGARDING CORPORAL PUNISHMENT

STATE	LEGALITY if possible			WHO MAY INFLICT				RESTRICTIONS										JUSTIFICATIONS					
	permitted	silent	not permitted	Administrator	Teacher	Other certified employee	Non-certified employee	need approval of principal	in the presence of another person	without undo anger	reasonable	not deadly force	approval from parents	provide parents with explanation	not in head or face	not in the presence of other students	restraint	correction	to maintain discipline	promote welfare of child	to quell misbehavior	to increase obedience
*ALABAMA		X																				
ALASKA		X																				
ARIZONA	X										X						X	X				
*ARKANSAS	X			X	X	X			X													
CALIFORNIA	X			X	X	X					X		X					X				
COLORADO	X				X	X					X								X	X		
*CONNECTICUT	X																					
DELAWARE	X			X	X														X			
FLORIDA	X			X	X			X	X					X					X			
GEORGIA	X			X	X				X		X								X			
*HAWAII																						
*IDAHO	X				X																	
ILLINOIS	X			X	X				X												X	
INDIANA		X																				
*IOWA	X			X	X																	
KANSAS		X																				
*KENTUCKY	X				X																	
*LOUISIANA	X			X	X																	
MAINE			X																			
MARYLAND			X																			
MASSACHUSETTS			X																			
MICHIGAN	X			X	X														X			
MINNESOTA	X				X						X						X	X				
*MISSISSIPPI	X			X	X																	
MISSOURI		X																				
MONTANA	X				X				X	X			X						X			
*NEBRASKA	X																					
NEVADA	X			X	X	X							X				X	X				
NEW HAMPSHIRE		X																				
NEW JERSEY			X																			
NEW MEXICO	X			X	X	X	X	X	X							X	X		X			
NEW YORK	X				X							X							X	X		
*NORTH CAROLINA	X			X	X	X					X						X	X	X			
NORTH DAKOTA	X			X	X																	
OHIO	X			X	X						X								X			
OKLAHOMA	X			X	X																	
OREGON	X				X						X								X	X		
*PENNSYLVANIA	X			X	X																	
RHODE ISLAND		X																				
SOUTH CAROLINA	X																					
SOUTH DAKOTA	X			X	X	X	X				X								X			
TENNESSEE		X																				
TEXAS	X			X	X														X			
UTAH		X																				
VERMONT	X			X	X						X						X		X			X
*VIRGINIA	X			X																		
*WASHINGTON	X			X	X																	
WEST VIRGINIA		X																				
WISCONSIN		X																				
WYOMING		X																				

*Data Extracted From New Jersey Survey: New Jersey Department of Education, Rulings for corporal punishment in the United States. Unpublished survey, 1976.

promote the welfare of a child. Those states are Colorado, New York and Oregon.

Summary and Conclusion

This paper represents a preliminary attempt to summarize the present status of corporal punishment and discipline laws in the United States. All State Departments of Instruction were requested to submit their legislation on corporal punishment. The results revealed that only four states have current legislation limiting the use of corporal punishment. However these states make exceptions with respect to its use in self-defense, to protect others, or to protect a child from hurting himself. Two of these states, Maryland and Maine, allow for its use at local discretion, and Hawaii has a temporary ban on its use.

A content analysis which examined the wording of statutes revealed: 1) the classroom teacher is the person most frequently empowered to inflict the punishment, although administrators are often mentioned; 2) the most commonly used restriction is that the punishment must be reasonable. Other restrictions include obtaining administrative permission, having a witness present, and the necessity of notifying the child's parents; and 3) corporal punishment is most often justifiable when it is used to maintain discipline. Other frequently mentioned justifications are to promote the welfare of the child, for purposes of restraint, and for purposes of correction.

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Corporal Punishment In The Schools: The Civil Liberties Objections

remarks of

Alan Reitman

Those who proclaim the civil liberties creed have a very clear idea of why corporal punishment in schools is a civil liberties issue and why such punishment should be eliminated from our educational system. Their opposition focuses on two fundamental violations of constitutional rights which are imbedded in the practice of corporal punishment. These are the Eighth Amendment's prohibition against cruel and unusual punishment and the Fifth Amendment's protection of both substantive and procedural due process.

Acceptance of this civil liberties position hinges on acceptance of changes in the status of children in our society. The point has long passed where children are subject *only* to the control of their parents, a relic of a smaller, less complex society in which government played a less influential role. Children are now controlled by various institutions of the state, for example, schools, social agencies, and courts; and we have begun to think of applying to children the same rights which adults possess when they become involved with agencies of the state.

This move to define the rights of children, to assert that children no longer are a special class requiring special protection and different treatment than adults, was boosted by the turbulent and radical social changes of the 1960's. Highlighted by movements to secure individual rights for members of many disadvantaged groups, the decade left its mark on the courts' attitude toward the rights of children. When for the first time in the *Gault* case (1967), the Supreme Court said young people have the right of counsel and notice in juvenile proceedings; when the Court ruled in *Tinker* (1969; a case upholding the wearing of a black armband to protest the Vietnam War) that "students in school as well as out are persons under our Constitution"—then the door was opened to say to school authorities that corporal punishment is a violation of constitutional rights.

What are the specifics of the two main constitutional arguments? The case against corporal punishment as a violation of the Eighth Amendment is based on the idea that such punishment *is* indeed cruel and unusual. This claim is asserted on several grounds: 1) Since corporal punishment has been eliminated from prisons and the military, schools are the one institution where, as a matter of legal right, children can be physically punished; 2) Many countries in the world have abolished the practice as an unhealthy and unnecessary part of the educational process; 3) It is psychologically cruel to teach children that violence is an appropriate means for handling differences or disputes; and 4) Most importantly, the application of physical punishment to children contradicts the cardinal element of democracy, the dignity of the individual. The whole meaning of the Eighth Amendment is rooted in the concept of human dignity, a concept conceived as a humanistic reaction to the use of torture and other barbarous treatment by European nations in punishing people.

The case against corporal punishment as a violation of due process of law rests on two aspects. One is the idea of *substantive* due process, the deprivation of personal liberty, in the instance of corporal punishment invading the physical integrity of the individual. This is often done in an arbitrary or capricious manner by teachers and school administrators without a *reasonable relationship* to a societal purpose. The key words to bear in mind are "reasonable relationship." Despite the claims that corporal punishment is an essential educational mechanism, it does not foster education. To the contrary, it teaches violence, it breeds tension and frustration between student and teacher, and it defeats the purpose of education in a democracy.

The second due process concern is the absence of *procedural* rights. When punishment is inflicted by the state (the teacher or administrator is the state's agent) the individual is entitled to certain elementary procedural guarantees which are central to a fair hearing: notice of the charge, right to counsel, a chance to rebut the charge, and cross examination of complaining witnesses.

To state so definitely that these civil liberties standards have been abrogated does not mean that the law, as interpreted by the courts, agrees with these approaches. The courts have declined, except in certain minimal ways, to adopt the civil libertarian position. Why?

The courts are great believers in the constitutional doctrine of separation of powers. In the area of education the courts have been especially loath to impose their authority on another branch of government, the local school authorities, in determining how to operate the schools. When one remembers that it took 26 years between the Supreme Court's *Barnette* (1943) decision (that the children of members of the Jehovah Witnesses' sect need not salute the American flag) and the *Tinker* decision on children's freedom of symbolic expression, one can see how strongly rooted is the Court's notion of federalism.

While some court decisions in the 1960's demonstrated a sensitivity to children's rights, and their importance should not be overlooked, a strong feeling persists that children are a special class which is not covered by the same blanket of constitutional protection as adults. This attitude, often described as the "social worker" approach, seeks to shield the child from the harsh reality of adversary proceedings and courtroom conflict. The motivation behind this attitude is commendable, but the attitude permits abuses of rights to flourish.

But the most important reason for the courts not rallying behind the civil libertarian position is their concern that elimination of corporal punishment will rob school principals and teachers of the tool necessary to enforce school discipline, to maintain order in the classroom. In adopting the educators' claim, the courts reflect society's broader concern for physical security and protection against violence. Yet this is a short-sighted view. The method of allegedly assuring order, corporal punishment, only fosters further violence and disorder. As in other emotionally charged instances of societal tension and unrest, the simplistic view prevails. The fact that unruly behavior in schools is symptomatic of a deeper, festering sore

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which needs to be treated is glossed over in favor of temporary palliatives for surface symptoms.

Before turning our attention to how the United States Supreme Court is handling the challenge of corporal punishment, we should bear in mind that the weight of lower court decisions has rejected the constitutional arguments, even though there are some differences among the courts themselves. On the Eighth Amendment problem, the courts have divided into three camps: some say there is no violation of the cruel and unusual punishment guarantee, some say yes there is, and others have made no decision on the basic constitutional point but ruled that as applied in particular cases no violation has occurred.

The two-prong due process argument has similarly failed except for agreeing that some attention should be paid to informing students of the reasons why corporal punishment is being imposed. However, the full array of procedural rights has not been given. And most important, since corporal punishment is perceived as a *reasonable* measure for maintaining order in schools and enabling them to carry out their educational function, substantive due process has not been infringed. One due process argument that is making some headway is that of securing parental permission—a form of notice—before the punishment is applied.

All of these approaches blend in two cases before the High Court, one decided in the fall of 1975 and one to be ruled on in this term. To comprehend fully the Supreme Court's action, the facts of each of these cases must be presented. In the North Carolina *Baker* v. *Owen* (1975) case Russell Carl Baker and his mother claimed that their constitutional rights were violated when Russell, a sixth-grade student, was twice hit with a wooden drawer divider for allegedly violating his teacher's announced rule against throwing balls except during designated play periods. Mrs. Baker had previously requested of her son's principal and teachers that Russell not be corporally punished because she opposed it on principle. Nevertheless, the two licks were given by a teacher in the presence of a second teacher and in view of other students.

The three-judge federal court in the *Baker* case made a number of rulings. First, that the North Carolina law allows the "use of *reasonable* [emphasis added] force in the exercise by school officials of their lawful authority to restrain, correct pupils and maintain order." Second, while parents have the right to control the disciplining of their children, when there is a compelling state interest, the parental right is not absolute. The state does have a countervailing interest in maintaining order in schools, and in the *Baker* case the interest was sufficient to sustain the use of a reasonable amount of corporal punishment. In short, the two licks did not add up to cruel and unusual punishment.

However, the federal court did say that a minimal amount of procedural due process must be given a student before corporal punishment could be inflicted. The court relied on the Supreme Court's ruling in the 1975 *Goss* v. *Lopez* decision involving the suspension and expulsion of students from school. In that case, the High Court rules that the suspension and expulsion amounted to a denial of education to the students. This constituted denial of a valuable property right, and therefore some degree of due process must be provided. Applying this approach to corporal punishment cases, the three-judge court held that 1) the punishment may never be used unless the student is informed "before hand that specific misbehavior may occasion its use"; 2) corporal punishment cannot be utilized as the first form of discipline; and 3) a second school official, the principal or other teachers, must be present and informed in the student's presence as to why corporal punishment is being used before the punishment can be inflicted. Before acknowledging these minimal protections, the court did note that Russell Baker did have an interest in avoiding corporal punishment as a matter of his personal liberty. The court held there is "personal security in small things of life as well as the obviously momentous" and that "the legal system, once quite tolerant of physical punishment in many contexts, has become less so."

The Supreme Court affirmed the *Baker* decision, but without any oral argument. This affirmance of a state statute was taken as the High Court's definitive stand on corporal punishment in schools. But to the surprise of corporal punishment's friends and foes, the Supreme Court accepted for review this term the case of *Ingraham* v. *Wright* (1977). The case concerned the use of corporal punishment in schools in Florida's Dade County, the sixth largest school system in the country.

The *Ingraham* (1977) case is different than *Baker* in a very significant way, the key point being the use of excessive, not reasonable, physical punishment. Again, a full statement of the facts is essential for understanding what is now before the Supreme Court. The final decision of the full U.S. Court of Appeals for the Fifth Circuit (*Ingraham* v. *Wright*, 1976a) described the issue as follows:

> Plaintiffs James Ingraham and Roosevelt Andrews, two junior high school students in Dade County, Florida, filed a complaint containing three counts on January 7, 1971. Counts one and two were individual actions for compensatory and punitive damages brought under 42 U.S.C. Sec. 1981-88, with jurisdiction claimed under 28 U.S.C. Sec. 1331 and Sec. 1343. Plaintiffs claimed that personal injuries resulted from corporal punishment administered by certain defendants in alleged violation of their constitutional rights, in particular their right to freedom from cruel and unusual punishment.
>
> Specifically, plaintiff Ingraham alleges in count one that on October 6, 1970, defendants Principal Wright and Assistant Principals Deliford and Barnes struck plaintiff repeatedly with a wooden instrument, injuring plaintiff and causing him to incur medical expenses. Plaintiff testified that this paddling was precipitated by his and several other children's disruption of a class over the objection of the teacher. Defendant Wright removed plaintiff and the other disruptive students to his office whereupon he paddled eight to ten of them. Wright had initially threatened plaintiff with five blows, but when the latter refused to assume a paddling position, Wright called on defendants Deliford and Barnes who held plaintiff in a prone position while Wright administered twenty blows.
>
> Plaintiff complained to his mother of discomfort following the paddling, whereupon he was taken to a hospital for treatment. Plaintiff introduced evidence that he had suffered a painful bruise that required the prescription of cold compresses, a laxative, sleeping and pain-killing pills and ten days of rest at home and that prevented him from sitting comfortably for three weeks.
>
> Plaintiff Andrews alleges two incidents of corporal punishment as the basis for his claim for damages in

count two of the complaint. Plaintiff alleges that on October 1, 1970, he, along with fifteen other boys, was spanked in the boys' restroom by Assistant Principal Barnes. Plaintiff testified that he was taken by a teacher to Barnes for the offense of tardiness, but that he refused to submit to a paddling because, as he explained to Barnes, he had two minutes remaining to get to class when he was seized and was not, therefore, guilty of tardiness. Barnes rejected plaintiff's explanation and, when plaintiff resisted punishment, struck him on the arm, back, and across the neck.

Plaintiff Andrews was again spanked on October 20, 1970. Despite denials of guilt, plaintiff was paddled on the backside and on the wrist by defendant Wright in the presence of defendants Deliford and Barnes for having allegedly broken some glass in sheet metal class. As a result of this paddling, plaintiff visited a doctor and received pain pills for the discomfort, which lasted approximately a week.

Count three is a class action brought by plaintiffs Ingraham and Andrews as representatives of the class of students of the Dade County school system who are subject to the corporal punishment policies issued by defendant members of the Dade County School Board. This count seeks final injunctive and/or declaratory relief against the use of corporal punishment in the Dade County School System and can be divided into three constitutional arguments.

First, plaintiffs claim that infliction of corporal punishment on its face and as applied in the present case constitutes cruel and unusual punishment in that its application is grossly disproportionate to any misconduct in which plaintiffs may have engaged. Second, plaintiffs claim that because it is arbitrary, capricious and unrelated to achieving any legitimate educational goal, corporal punishment deprives all students of liberty without due process of law in violation of the Fourteenth Amendment. Plaintiffs also allege that the failure of defendants to promulgate a list of school regulations and corresponding punishments increases the capriciousness of the punishment. Finally, plaintiffs claim that defendants' failure to provide any procedural safeguards before inflicting corporal punishment on students, including adequate notice of alleged misconduct, hearing, examination and cross-examination, representation and notice of rights, constitutes summary punishment and deprives students of liberty without due process of law in violation of the Fourteenth Amendment. (p. 911)

The *Ingraham* (1977) case is especially interesting because there was an earlier decision of the Fifth Circuit which reflected a partial civil liberties view. By a two to one vote the panel said that while corporal punishment per se could not be invalidated, its excessive use was not reasonable and thus violated the constitutional bar against cruel and unusual punishment. The majority said that when such punishment causes obvious physical and psychological injuries, and is systematically administered and inflicted on students who were not given a chance to explain the circumstances of their "crime," the Eighth Amendment guarantee could be invoked (*Ingraham* v. *Wright*, 1974).

Sensing the importance of this legal decision, the school authorities in Dade County appealed for a re-hearing before the full bench of the Fifth Circuit. This time the decision went the other way, with 10 judges finding nothing improper with the Dade County school policy or the actions of its school personnel. Three judges adhered to the earlier majority position.

What did the 10-judge majority say? On the key question of cruel and unusual punishment, the court held that this provision of the Constitution does not apply to the administration of educational discipline for two major reasons (*Ingraham* v. *Wright*, 1976 a):

1. The background of the Eighth Amendment shows that it is concerned only with criminal actions. Historically, the Eighth Amendment reaches back to European practices centuries ago when confessions were extorted from criminal suspects through various forms of torture. A distinction, therefore, must be drawn between criminal behavior and civil penalties such as applied in school situations.

In this vein, while the Eighth Amendment is not applicable to wrongful behavior by school officials, if a teacher or administrator has meted out excessive punishment, there is no reason why the state courts cannot be asked to redress the grievance of such wrongful conduct in a suit for damages. In effect, child abuse can be challenged, but not as a constitutional issue.

2. The argument that since corporal punishment has been banned in prisons, similar punishment should be barred in schools is a poor analogy. In the context of the Eighth Amendment, the two situations are different because, as noted above, prisoners were involved in crimes while students and teachers were not.

The claim that substantive due process is infringed was turned down on the usual ground that the punishment in the *Ingraham* case was not "arbitrary, capricious or wholly unrelated to the state purpose of determining its educational policy." The appellate court went on to say that "maintenance of discipline and order in public schools is a prerequisite to establishing the most effective learning atmosphere." Hence it is a proper "object" for state and school board regulation. Moreover, since the Florida education law provides guidelines for establishing standards in the use of corporal punishment, there is no evidence of arbitrary action.

The majority expressed no concern about the "individual" instances of punishment, stating that it is not the court's function to determine the difference between applying five or ten licks of the paddle. This section of the majority decision concludes with a subjective statement on the value of paddling, which seems to contradict its view that courts have no right to judge the wisdom of particular school regulations. The majority said, "Paddling of recalcitrant children has long been an accepted method of promoting good behavior and instilling notions of responsibility and decorum into the mischievous heads of school children. We do not here overrule it." (Compare this statement with that of the three-judge federal court in the *Baker* case which said, "And though we accept Mrs. Baker's assertion that corporal punishment of children is today discouraged by the weight of professional opinion, we are also cognizant that the issue is unsettled and probably incapable of categorical resolution.")

The contention that procedural due process was also violated fared poorly in the majority decision. It was rejected on three basic grounds:

1. Due process guarantees are rooted in the idea of fairness measured against the total circumstances of the case, especially the extent to which an individual suffers a *grievous loss* (emphasis added). Since the paddling of students does not amount to a grievous loss, due process standards don't apply.

2. Reliance on the North Carolina *Baker* decision providing some degree of due process is faulty legal analysis. That decision drew from the Supreme Court's statement in the *Goss* case concerning due process in suspension and expulsion situations. But there is an important distinction between the harm suffered by students who are suspended or expelled and students who face corporal punishment, defined by the court "as a much less serious event in the life of the child." The majority also noted the technical point that since the only question before the Supreme Court in *Baker* was whether parental objection could bar the use of corporal punishment, and the defendant school officials did not appeal the lower court's decision on procedural safeguards, the Supreme Court's affirmance of *Baker* did not cover the due process elements in the case.

3. The value of corporal punishment as a tool for maintaining discipline and order would be undermined if it were diluted by a series of elaborate procedural due process protections. The court said, "To require, for example, a published schedule of infractions for which corporal punishment is authorized, would serve to remove a valid judgmental aspect from a decision which should properly be left to the experienced administrator. Likewise, a hearing procedure could effectively undermine the utility of corporal punishment for the administrator who probably has little time under present procedures to handle all the disciplinary problems which beset him or her."

The three dissenting judges, while a small minority, provided a powerful rebuttal which was grounded in many areas on a strong civil liberties rationale.

The minority saw an important distinction between the two licks of the paddle applied in the *Baker* case, which it called "reasonable" punishment, and the kind of excessive beatings noted in the *Ingraham* record. The latter were so severe as to constitute cruel and unusual punishment.

Sharp issue was taken with the majority's position that the Eighth Amendment standard does not apply to school discipline. This is wrong the minority said, because the Constitution must be seen as a document based on evolving standards. While in 1791 when the Bill of Rights was adopted, government punished "solely in retribution for crimes," the scope of the Eighth Amendment is much broader today, since it is applied to a variety of state actions. "Today, government has greatly expanded and provides a multitude of social institutions and public services. The administration of punishment is no longer confined to a criminal setting. It is now employed in public schools." To substantiate its contention that the Constitution is a "living" constitution, the court said that at one time the Supreme Court held the view that "separate but equal" facilities in education was constitutional. Yet in 1954, in the *Brown* case, this ruling was rejected because of new knowledge available about the status of education and the psychological development of children.

Rejecting the majority argument that corporal punishment might be viewed as child abuse to be dealt with in damage suits in local courts, the minority stressed the responsibility of federal courts to uphold constitutional rights. Citing the precedential case of *Marbury* v. *Madison* in 1803 which asserted the authority of the federal judiciary over Congressional statutes, the three judges wrote, "School children have a constitutional right to freedom from cruel and unusual punishment when applied under color of state law: Our duty as federal judges is to enforce that right."

The dissent also differed with the majority's view of the due process interests in *Ingraham*. It said that cruel and severe corporal punishment was never justified and the undisputed evidence in the case "amounted to arbitrary and capricious conduct unrelated to the achievement of a legitimate educational purpose." Such conduct contravened substantive due process. Procedural due process was denied in light of the standards set down in the *Baker* case. Heavy emphasis was placed on the fact that there was a grievous loss of rights and a hearing of some kind should have been held, especially in light of the students' protestations of innocence, deprivation of their liberty and the psychological injury suffered.

When the Supreme Court heard argument in the *Ingraham* case in the fall of 1976, opposing counsel debated sharply the underlying philosophy in the majority and minority opinions of the Fifth Circuit opinions. Bruce Rogow, attorney for the paddled children, argued that the Eighth Amendment's prohibition against corporal punishment did apply to the school setting (*Ingraham* v. *Wright*, 1976 b). Rejecting the notion that the Amendment is reserved only to actual crimes, Rogow said that while the ban on cruel and unusual punishment was enacted in the context of proscribing barbarous methods of punishing criminals, the Supreme Court "has recognized that for a principle to be vital it must be capable of wider application than the mischief which gave it birth." Noting that the corporal punishment inflicted in the *Ingraham* case should be measured against contemporary values, he cited the Supreme Court's decision in *Robinsion* v. *California* (1962) which prohibited the imprisonment of persons for drug addiction. This showed the flexibility inherent in the Eighth Amendment.

Rogow emphasized to the court the excessive and severe punishment involved in the case, adding that whenever an instrument is used to inflict bodily pain upon public school children, the Eighth Amendment is invoked and due process guarantees apply. The children were denied their property right to an education because of time missed from school, the paddling being, in effect, "suspension."

Frank A. Howard, counsel for the Dade County School Board, stressed that the case offered the Supreme Court the opportunity to clarify the scope of the Eighth Amendment by confining it "to punishment collateral to the criminal process" (*Ingraham* v. *Wright*, 1976 b). He said that corporal punishment in a public school setting involves neither imprisonment nor a deprivation of liberty. He also denied that the punishment imposed on the children was so severe that it approached the level of an Eighth Amendment violation.

Howard also challenged the contention that procedural due process is required before *any* punishment could be inflicted on public school students. He distinguished between the due process protections set down by the Court in the *Goss* v. *Lopez* decision, and the *Ingraham* case (1976 a). The former dealt with suspension from the school, whereas corporal punishment is an alternative to suspension. The Florida students suffered no future deprivation, either in schools or in finding jobs.

This summary of the most current legal developments in the struggle against corporal punishment in the schools leaves one major question unanswered. Why has the Supreme Court agreed to review the *Ingraham* (1977) case only a few months after its summary affirmance of the validity of corporal punishment in the *Baker* case?

There is always danger in speculating on the motivations behind a particular Supreme Court action. One is not privy to the judicial debates in the Court's inner councils. Nor does the public realize the technical points in cases which may warrant further review. But if one has to guess why the Court decided to take a second look, the answer might be that the facts of *Ingraham*—the excessive use of force—required clarification of the Court's position. The *Baker* case never reached the essential question of whether corporal punishment is per se cruel and unusual. The facts of *Baker* dealt only with the "reasonable" use of corporal punishment. Perhaps, also, the Court is plowing deeper the whole field of punishment as a follow up to its mixed rulings on *capital* punishment. Its decisions last July held that the death penalty could be applied only to the most serious crimes, although its definition of "serious" is still incomplete, and that judges and juries had to examine mitigating and aggravating circumstances.

Whatever the Court's reason for accepting *Ingraham*, we should have by the winter of 1977 a decision on the two constitutional issues: cruel and unusual punishment and due process of law. If the decision is affirmative, psychologists, educators, parents and civil libertarians will have an important asset in challenging state statutes allowing corporal punishment. If the decision is negative, the issue must be carried into the political arena where the public and legislators must be persuaded that regardless of constitutionality the practice of corporal punishment is wrong and should be abandoned.

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A Legal Defense For Corporal Punishment In The Schools

remarks of

Frank A. Howard, Jr.

The title of my talk implies a value judgment that corporal punishment must be defended as desirable or as valuable in itself. That's not my position. I'm not qualified to defend corporal punishment with any expertise as a psychologist or a behavioral expert. Rather, I'm a lawyer; and I will try to present to you the legal rationale for the use of corporal punishment by school authorities. I will also present the arguments that have been used by attorneys for school districts, including myself, in the defense against attempts to deprive school authorities of the discretion to use corporal punishment as one of a number of alternative disciplinary measures.

I think we can all agree right away that there is no intrinsic value in inflicting discomfort or pain on a child. The use of corporal punishment in the schools is justified on two traditional grounds. The first is that it is useful to correct misbehavior and to induce desirable behavior in children; and the second, that it is necessary to preserve an orderly climate or atmosphere for learning in the schools. The business of the school is to educate, and without order and attention that function can't be carried on. Now, whether corporal punishment achieves these ends, or whether it does so at the expense of destructive consequences to individual children is another question. The answer is subject to disagreement among educators as well as theorists and practitioners in behavioral sciences.

In general, what I might call the case against corporal punishment faces several formidible obstacles. The first of these is a long history of the acceptance of corporal punishment. We all know the Biblical injunction, "Spare the rod and spoil the child." The second obstacle is the widespread use of corporal punishment, both by parents and by school authorities. The third factor is that corporal punishment is officially sanctioned in most states of this country either by legislative action in written statutes or by common law. (The latter being the process of decision by a court in individual cases). The next obstacle to the case against corporal punishment perhaps is the rising concern these days over disruption and violence in the schools. We see this in the newspapers, see it on television, and judges read newspapers and they watch television too. And finally the very fact that experts do disagree on the utility of corporal punishment makes the courts reluctant to substitute their judgments where experts themselves don't agree.

Let me come to the current state of the law on corporal punishment. You all know that under our federal system we have two fields of law to consider. The first is the law of the states as it is expressed either in statutory law enacted by the legislatures of the states or by the cases that are decided by the courts in the states. Then we have federal law, in regard to this topic we'll be dealing with federal case law because there is no federal legislation which attempts to regulate or define or restrict corporal punishment within the states. I will not spend a great deal of time dealing with the first field of law, the law of the states. Rather I will simply try to set some predicates with which to continue the discussion.

The traditional legal basis for the use of corporal punishment in the schools is derived from an old doctrine which in Latin is called *in loco parentis*, a concept with which I'm sure you're familiar. It simply means in place of the parent. While the child is in school and subject to the authority of the school principal and school teachers, these school authorities stand in place of the parent with respect to the power to correct or discipline. I'm not sure that I have current statistics on state law throughout the country. I think we're going to have an update on that a little bit later on in the program today. I will take these following statistics from the brief in the Supreme Court (*Ingraham* v. *Wright*, 1977) which was filed by my opponent, the attorney for the students. Ten states in the country, by statute, permit corporal punishment in so many words. Twenty-three states authorize corporal punishment by giving to school officials the same authority as the parent to discipline children in schools. There are other states which have no written statutes but which by case law permit the use of corporal punishment. There are two states which prohibit it by statute, Massachusetts and New Jersey. There are some local school districts and school boards which prohibit it. I think the District of Columbia, for example, forbids by local rule the use of corporal punishment. There has been an interesting development in my state, Florida. Last year the legislature passed an act which dealth with various aspects of student conduct and discipline. The legislature in that act prohibited the school boards in Florida from forbiding the use of corporal punishment. The legislature was telling the school boards that they may not prohibit corporal punishment throughout their school districts. So we have to try to judge where the pendulum is swinging. The state law, with minor variations, follows well set principles of detailed law. Those principles, in summary, are as follows. Punishment inflicted by a school official on a child must be reasonable or moderate in nature. It may not be administered maliciously or for purposes of revenge on the student. The reasonableness, in any given case, is a question or fact to be determined by the judge or the jury, who must consider all the circumstances of the particular case: the age of the student, the type of misconduct, the number of strokes or licks that were given to the child, and all the factors that entered into the given case. I think it's essential that we all remember that no state sanctions excessive force or unreasonable corporal punishment. School administrators have been and are now always subject to criminal punishment such as charges of assault and battery with fines or imprisonment if they are found criminally at fault. So much for state law.

When we examine federal case law we find that attention to the field of corporal punishment has been a fairly recent development. Since an early case in Texas, (*Ware* v. *Estes*, 1971) the case law, while not extensive in scope, has developed rapidly over the years. Some of the cases brought to court have been on behalf of individual students seeking damages for claimed excessive punishment. A few of the cases have been brought as broad challenges to the use of corporal punishment, seeking abolition of corporal punishment or restrictions on its use and administration in the schools. The case of *Ingraham* v. *Wright*, which is my case, is the most significant broad gauge attack so

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far. In thinking now about the federal litigation, the first thing to remember is that the federal courts are limited in their jurisdiction. They are not in the business of enforcing state laws except in some cases where there is a diversity of citizenship between the parties, and that is usually not the case in corporal punishment controversies. In order to get into the federal court and stay there, a litigant must allege and later prove a violation of federal law or a violation of some provision of the U.S. Constitution. Since there is no federal legislation on the subject of corporal punishment this means that a child or a parent who seeks relief must claim some protection under one or more constitutional provisions.

There have been five basic theories advanced in federal cases which have challenged the use of corporal punishment. The first two of these have been arguments that corporal punishment violates the Eighth Amendment. The Eighth Amendment to the Constitution reads as follows: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted." The cases which have challenged corporal punishment under this Amendment have taken two approaches. One is the claim that corporal punishment in and of itself is a violation of the Eighth Amendment, with any administration of corporal punishment per se viewed as "cruel and unusual" punishment. The other approach that has been taken is to argue that corporal punishment, as administered in a particular case, violated the Eighth Amendment because of the severity of the punishment.

The other theories that have been advanced arise under the Fourteenth Amendment to the Constitution which among other provisions prohibits any state from depriving any person of life, liberty and property without due process of law. Now, there are two aspects of this. The first aspect is what the lawyers call "substantive due process" and without trying to get technical, the argument here is the theory, developed in federal case law, that an action by a state or under color of a state law must be rationally related to a legitimate state objective or state purpose. In effect, this doctrine condemns arbitrary, capricious state action which applies to an individual.

The second aspect of the Fourteenth Amendment theory is the so-called "procedural due process" aspect. The case law here has developed the rule that state action, which imposes a significant penalty or a grievous loss or deprivation of some protected interest upon a citizen, must be preceded by some sort of notice of charges, and with some opportunity for a hearing or a conference, and a chance to respond on the part of the person who is to be affected. The purpose of this doctrine is to prevent summary action by state authorities which gives the citizen no opportunity to respond or to be heard. It is a flexible concept rather than just a hard and fast rule. Procedural due process in one context may be a great deal different in another. Take for example, a person facing a criminal trial and imprisonment; procedural due process guarantees him a whole array of rights including the right to counsel, cross examination of witnesses, confrontation, the right to a court reporter, all sorts of rights which the courts have developed. When you come down the spectrum and get into less serious types of actions by the state, the requirements of due process are diluted. If a child is going to be suspended from school, I wouldn't think anyone would consider he is entitled to a lawyer and a court reporter, a judge, a transcript, an appeal and so forth. I make this point to illustrate that the due process procedural theory is flexible depending on the circumstances.

There is a final theory which has been used in some cases, this under the Fourteenth Amendment also. That theory argues that corporal punishment is a violation of the parental right to control the rearing and upbringing of the child.

Now let me finally get to the legal arguments here. I will discuss these points in reverse order. On the issue of parental right, that's the one issue which has been settled by the Supreme Court in the case of *Baker* v. *Owen* in 1975. A three judge lower court in North Carolina held that as between the parent and the school authorities, while the child is in the public school, the state's interest in correcting misconduct and maintaining order prevails over the parental point of view. So that even against parental objections, the school authorities may choose to use corporal punishment. In a way, that sort of places the *in loco parentis* doctrine beyond the traditional understanding such that the school not only stands in place of the parent but, the court said, the school may overrule the parent by choosing to use this type of disciplinary measure. The Supreme Court affirmed that decision without writing an opinion so we don't have a written expression from the Court on the issue, but we do have a square ruling on it.

The other legal theories—procedural due process, substantive due process, and cruel and unusual punishment—all are illustrated in the case of *Ingraham* v. *Wright* (1976). Without tracing the history of this case, the U.S. Court of Appeal for the Fifth Circuit, sitting in New Orleans with jurisdiction over Florida as well as other Southeastern states, has ruled squarely on each of these other three issues and upheld the right of the public school authorities to utilize corporal punishment as a disciplinary measure. This decision was made by the full court. There were some differences over procedural points but 10 judges concurred in the entire decision, while three dissented from the decision.

The Supreme Court was asked to review the case by the attorneys for the students and agreed to do so (*Ingraham* v. *Wright*, 1977). It was briefed fully on the merits of the case, which was argued before the Court in Washington, D.C. on November 2nd and 3rd, 1976. Four parties filed *amicus curiae* or friends of the court briefs, two on each side, so we were balanced. The National Education Association and the American Psychological Association filed amicus briefs in support of the students' position. The National School Boards Association and the United Teachers of Dade, which is our teachers' organization in Miami, filed amicus briefs in support of my position on behalf of the school board.

I'll discuss the arguments on each of these issues and at the end will try to predict the consequences of the decision, whichever way the Court rules, because I think there may be some misapprehension about what the Court is likely to do in light of the actual issues that have been presented to it. I will begin with the procedural due process argument. The petitioners, that is; the students in the case, argued through their attorney that severe corporal punishment inflicted on a child is a deprivation of the child's liberty. Here we come back to the language of the Fourteenth Amendment. The contention was that "due process" in the procedural sense requires that notice of charges be given to the child (or to his parents) and that the child given the right to be heard, even in an informal manner, before he is punished, and that some neutral third person be appointed to decide whether or not he should be punished and who should inflict the punishment. The legal theory here is reliance upon the Supreme Court decision in *Goss* v. *Lopez* (1975). That case held that before

a student can be suspended from public school he must be given some very minimal due process procedures. There must be an informal conference, and he must be told why he's to be punished and given an opportunity to respond. So the petitioners in this case argued that corporal punishment stands on the same footing with suspensions, and that the students should have the same rights. My responses, my defenses, were these. First, the argument that due process procedures must be given before severe corporal punishment is inflicted makes no sense. Obviously no amount of due process or procedural steps can legitimize severe or excessive corporal punishment. So the true issue then is whether procedural due process steps are required every time any school administrator intends to administer corporal punishment in each and every case, because you can't limit it to severe cases. The administrator isn't going to sit down ahead of time and say, "Well, I intend to severely and excessively punish that child and therefore I'm going to give him some due process and then punish him." It doesn't make sense. So the issue the Justices have to face, I think, is whether they're going to lay down a nation-wide rule to the effect that in each and every case throughout the country, procedural due process steps have to be taken before any corporal punishment can be used.

In sum, my answer to the suspension case is this. According to the Court's ruling in the *Goss* v. *Lopez* (1975) case, suspensions involve the deprivation of education. Suspension takes a child out of school and deprives him of the right to be educated, and that's the right the state guarantees him when by law it requires him to go to school and by law guarantees him a free public education. In contrast to that, ordinary corporal punishment, not excessive but ordinary corporal punishment, involves a transitory discomfort and not a permanent serious deprivation which is going to affect the child's future or his career.

Going beyond that we have to look to the interests of the school administrators and to the interests of the public in maintaining order in the schools. American society generally approves corporal punishment as one disciplinary tool for use in the schools, and the federal courts ought not to pre-empt or usurp the local authority to choose to use or choose not to use corporal punishment or to experiment with the regulation of corporal punishment. If the Court lays down a federal constitutional rule requiring due process procedures in every case, then this is going to invade the tradition in this country of local control of education. Beyond that, it would further frighten school administrators who are already threatened with federal courts overseeing their decisions and second guessing routine educational measures which are taken. So the question is really where do you draw the line on procedural due process. If corporal punishment is a grievous enough harm or loss to invoke procedural due process then what about a lot of other decisions that are made by educators? Should a student who risks a failing grade in a course be entitled to due process procedures, a hearing and so forth? That's a grievous loss to the student and it may be a very serious block to his future education and to his career. Do we want the federal courts overseeing those kinds of decisions? Do we want the courts looking at questions of who is eligible to play football and those sorts of decisions? To take it perhaps to the ridiculous, suppose a teacher in the classroom finds the student talking and tells him to shut up. The teacher is acting under color of state law. Has the teacher violated the student's First Amendment rights to express himself? If you keep backing down the line, you can somewhere get to the ridiculous argument. The question is where do you draw the line? My contention is that *Goss* v. *Lopez* (1975), the suspension case, ought to be the end of the line and that the Court should not advance one step further into routine educational decisions. Two federal courts have accepted the idea that procedural due process does apply to corporal punishment. All the other federal courts which heard the argument have rejected it, including of course, the Fifth Circuit in *Ingraham* v. *Wright* (1976).

The second issue, the issue of substantive due process, which I mentioned earlier, is really not an issue before the Supreme Court in *Ingraham* v. *Wright* (1977). The Supreme Court when it agrees to review a case specifies the issues which it wants briefed and argued. In this case the attorney for the students asked the Court to consider the issue of substantive due process, but the Court did not agree to review on that issue, so I don't expect that the Court will decide anything related to that although we got into it during the oral arguments before the Court. I'll give you the arguments for and against it anyway.

The argument for using substantive due process as a means of restricting or abolishing corporal punishment is that corporal punishment in today's schools is archaic and counter-productive, and that it is unrelated to a valid state objective. This argument was made in my case in the proceedings in the lower courts and in order to make the argument, you have to support it with expert testimony, which was done. The arguments against using the substantive due process approach are those. In the first place, the law in most states, does uphold the use of corporal punishment. So therefore, the state does believe at least that it is a legitimate measure and that corporal punishment does serve a useful state-related purpose. The second argument is that since experts and the educators disagree, the federal courts ought not presume to substitute their judgment on a subject about which the judges are not experts, and upon which the folks who do have expertise disagree. No court has accepted this theory so far, no court has held that corporal punishment is so unrelated to the state objectives that it must be discontinued.

Finally, we come now to the cruel and unusual punishment issue. This is the sexiest issue in the case and it's probably the one that's giving the Supreme Court the most trouble in reaching a decision. In the first place let me say this, because I think it might be important to you; the argument was not made that all corporal punishment is invalid as cruel and unusual punishment. That position was taken in the lower court proceedings. It has never been accepted by any court that has heard the issue, and the attorneys in this case apparently felt that their chances were better to back down and limit their position on this, rather than to try to convince the Supreme Court to abolish all corporal punishment. So that argument was not made to the Supreme Court. What they did argue is that excessive or severe corporal punishment is: 1) action by a state official; 2) under color of state law; and 3) that therefore, as the Eighth Amendment has been used to prohibit whipping of prisoners in state prisons and penitentiaries, it would be a paradox to say that the Eighth Amendment gives no protection to school children who are punished. That's an appealing argument and it gave me a good deal of difficulty.

The arguments that I presented on the other side of this issue are as follows. The first argument deals with the proper scope of the Eighth Amendment itself. In its origin, its purpose, and in its historical application, the Eighth Amendment

has been confined to punishment of crimes or punishments collateral to the criminal process. It has not been directly applied to schools. The second argument rests on considerations of federalism which interplay in all these issues, and that position is that not every wrong that is done by a state official automatically becomes a federal civil rights action. If you allow every child who claims that he was punished beyond acceptable limits to go to federal court and bring an action, where do you draw the line there? If a traffic policeman gives you a ticket and you argue with him and he punches you in the nose, that is a disproportionate penalty for the offense, but do you have a right to go to federal court and have that action examined as a federal case? Beyond that, school children are not defenseless and without any remedy. They have full and adequate state remedies in the state courts for cases of excessive punishment. So that you won't think that the Fifth Circuit is a bunch of cruel old gentlemen sitting in New Orleans approving child abuse, let me read you a quote from the opinion of the Fifth Circuit:

> We do not mean to imply by our holding that we condone child abuse, either in the home or the schools. We abhor any exercise of discipline which could result in serious or permanent injury to the child. Indeed, if the force used by defendant teachers in disciplining the plaintiff was as severe as plaintiffs allege, a Florida state court could find defendants civilly and criminally liable for tortuous conduct exceeding the level of severity authorized by [the statutes in Florida]. The basis of such actions is, however, tort and criminal law, *not* federal constitutional law. We find it neither proper nor necessary to expand the Eighth Amendment beyond its intended and reasonable scope to encompass an action which is essentially based on the commission of a battery. (*Ingraham* v. *Wright*, 1976)

As for the paradoxical argument referring to the use of the Eighth Amendment to prohibit corporal punishment in prisons, my response here was that prisons and public schools simply are not analogous when you are analyzing this particular issue. Corporal punishment with prisoners is more easily seen or perceived as cruel or unusual, because the prisoners have already lost their liberty. They are confined in an institution, they are subject to other means of correctional misconduct such as isolation in the cells, loss of gain time and things like that which are not applicable to public school students. So you can easily see that no good purpose is served by permitting prison authorities to whip prisoners as a means of discipline when they can use these other measures. Beyond that, the abuse of corporal punishment in prisons is much more likely because prisoners are secluded from the public, they are secluded from their families and they are secluded from the scrutiny of the press. On the other hand, schools are in the business of education, not correction, as prisons are. Students are not confined and they can't be put in a cell and kept there overnight, the schools are open to the parents and to the public and to the press, therefore abuse is less likely to occur in the first place and much more likely to come to light if it does occur. Again we have the question of line-drawing. If corporal punishment is cruel and unusual punishment within the intent of the Eighth Amendment and if it's penal in nature, then what about other school penalties? If a student is expelled from school for chewing gum in his math class, that is a pretty serious penalty. But is the Eighth Amendment to the Constitution violated? Do we want the federal courts reviewing that sort of decision as cruel and unusual because it is so disproportionate to the misconduct? So we're back really to the same question—should the federal courts be involved in examining routine school disciplinary measures whenever a parent or a student feels aggrieved about something that has happened in school?

In conclusion, I have tried to outline the legal and the policy arguments for and against federal intervention in this area of school operations. The decision by the Supreme Court is going to be of great interest to educators and to everyone who deals in the handling of children, and it very well may be of far reaching importance. It is always risky to speculate or try to predict what the Court will do, but let me venture a few predictions anyway. In the first place, I don't think the Supreme Court is going to abolish corporal punishment. That issue wasn't argued to them even by the attorneys on the other side and I don't see any real chance that the Court is going to go that far. The Court may extend the protection of the Eighth Amendment to students in cases of abusive or excessive corporal punishment. The effect of that will simply be that students will have a remedy in federal courts in addition to the remedies available in the state courts now. The Court probably will not rule on the question of substantive due process, since it did not agree to hear the issue and it was not really presented. The Court may prescribe some form of procedural due process steps as requirements preliminary for administration of corporal punishment by public school authorities. If so, this is going to have implications throughout the country with respect to existing state law and local practices, because if the Court requires some procedures, even minimal in nature, that requirement will become a constitutional rule and any state statute or local board policy in conflict will be invalid. Students will have a right to sue if punished without the procedural steps that the Court may prescribe, whatever they may be.

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A Practical Defense Of Corporal Punishment In The Schools

remarks of

Lansing K. Reinholz

I'm speaking as a school administrator and as a parent. I have three children, ages 16, 14, and 12. The oldest is a boy and the younger two are girls. I've been a school administrator for 11 years, prior to that I was a teacher for three years. I'm not a psychiatrist, I'm not a psychologist, I'm not a counselor, I'm not a lawyer. I'm not anything except a "practitioner" that faces 6,000 children a day, 12,000 parents, a school board of 13 from a community of 40,000 that employs 400 professional teachers. Burlington is a Democratic city in a state that is viewed as a conservative state. But in fact, Vermont is probably the second or third most liberal state in the country in terms of its political attitudes. Therefore, my point of view and point of reference is that there is a practical defense of corporal punishment.

An attorney by the name of Kelly Frels (1975) from Houston wrote:

> The authority of a teacher to use corporal punishment as a disciplinary technique is an element of the common law doctrine of 'in loco parentis'. Under the doctrine, a teacher stands in the place of the parent and has the right to use reasonable physical punishment to secure acceptable behavior. Standing alone as an abstract concept and unsupported by the requirements of securing and maintaining an educationable environment 'in loco parentis' loses some of its Blackstonian vitality. The doctrine's loss of relevancy is particularly evident when a parent in whose place the teacher stands does not want the child physically punished. The concept of 'in loco parentis' has almost universally been rejected at the university and college level. Teachers and administrators of public schools stand in some degree 'in loco parentis' to the students. The degree to which teachers and administrators stand 'in loco parentis' appears directly related to the maturity of the individual student and his ability to function independently, conditioned somewhat by his parents' expectations. These factors, together with the existence of compulsory education, the nature of public school scheduling, the financing of the school through local property tax and other environmental factors peculiar to the public school setting are contributing factors to the existence of 'in loco parentis'. (p. 149)

On the other hand, the necessity for the use of corporal punishment as a means of managing behavior in schools arises from two particular sources. First, education is compulsory; children between the ages of 6 and 16 must attend school unless otherwise excused by local or state statute. Secondly, there is often no positive alternative institution to which a child can turn when he/she is suspended from school. In this instance I think the word suspension is appropriate to describe the state of many of these youngsters. If they are suspended from school, where are you going to suggest the parents or the child go for assistance in obtaining a public education for that child? All of us recognize that public education is desirable; it is desirable for children to learn the basic skills that they need to support themselves and to be contributing members of society. The basic knowledge must come from the public school in this country, for there isn't any other source. Therefore, if we suspend a child from school as a possible alternative to corporal punishment, there is no place to send him/her except to the street. In Burlington, suspensions total about 100 per year, all in the secondary schools. Suspended children under the age of 16 do not end up back in the public school system for the most part. They go to an institution called Weeks School. Weeks School is a quasi-reform school for wayward youngsters. Wayward in this case means some behavior which may or may not be described in state statutes.

I think that as public school administrators or public school teachers we're being derelict in our responsibilities as public employees if we haven't used the alternative of corporal punishment prior to permanently suspending the student and sending him/her down a road where return to the public institution is impossible. Not having a place to send students when we suspend them from school results in a great cost, not only to society, but to the individuals involved. We recognize that.

The difference between what people refer to as the abuse of children and corporal punishment is not the only distinguishing factor with regard to touching children or disciplining children in school. Another term that is thrown about loosely is "physical restraint." There are qualifications that need to be exercised when corporal punishment is about to be considered as a means of punishing the child for inappropriate behavior. Those qualifications are necessary so that the corporal punishment has a beneficial effect and is not a destructive tool. Punishment should not physically harm a child for a long period of time. I'm not talking about abusing the child. I'm talking about leaving marks on the child. In fact, if a force beyond that which is reasonable results in physical harm to the child, then by all means that individual should be tried for criminal assault. I don't think you can find an educator in the country who would say that a person who inflicts such harm should be allowed to stay in the school. By the way, I was not the public school administrator in Vermont, referred to by another speaker, who in 1974 kicked a kid in the stomach. Kicking that kid in the stomach resulted in a court case which the teacher won, interestingly enough. The child was not kicked in the stomach, that was the alleged incident. Those people who are advocating the abolition of corporal punishment consistently put the term abuse right out in the front where the public sees it as being the norm rather than the extreme form of corporal punishment in public schools.

Corporal punishment should not be applied with malice. Again, we are talking about the reasonable use of discipline on a student in the public schools. The grievant, in my opinion, should not do the punishing. In the school the grievant is usually a teacher. As a parent, I don't believe that parents should inflict corporal punishment, spank their child or shake their child at the time that they are grieved. At that time the parent is angry, just as the teacher is angry when the child is disruptive in the classroom. When the parent is angry, he/she is not going to be reasonable. Under normal circumstances he/she is not going to inflict the kind of punishment that he/she would inflict if he/she took five minutes and calmed down and assessed the situation to determine whether, in fact, what

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the child had done really required as stringent a method of discipline as corporal punishment. The same thing should be true of the teacher. If the teacher is the grieved party, then the teacher should not be the person to inflict corporal punishment.

It's not even necessary to say, but I will, because people advocating the abolition of corporal punishment fail to recognize it, that rarely is corporal punishment ever used as the first means of punishment in the school. I've been in public education for 13 years and I've never seen, never, not one time, a teacher or administrator or non-professional employee of the public school system hit a child the first time that a child does something that he/she is not supposed to do in school. I am not going to say that there are not instances of that. I do know of football coaches that have used forearm blows to a player who doesn't do what he is supposed to do on the football field and I think that is abuse. That is not corporal punishment. However, corporal punishment is not the first means of punishment in the school and it should not be. Corporal punishment should, in most cases, be a last resort after all means of appropriate punishment have been used and evaluated. It should be used when all other alternative means of punishment have been tried and have failed. The child should know before hand why he/she is being punished and what he/she is being punished for.

The student receiving the punishment might be given a choice of corporal punishment or suspension if a professional, other than the grievant, deems that this would be a meaningful decision. If we rely so heavily on independence of students today; if we think that they are capable of making all those decisions that people in this country would like to have the students making for themselves, then maybe we should give them the chance to make this decision. Do you wish to receive corporal punishment or do you wish to be suspended from school? Suspension, in this case, means not to return. Those are the last two alternatives when you get to the bottom line in a situation that demands corporal punishment as an appropriate alternative. Which one do you want? I can tell you that I have used that approach. In the 13 years that I have been a school administrator and a school teacher, I can recall and document at least 200 instances where I've administered corporal punishment and that's not all whacking. That's not just using paddles in every instance, but if you shake a student, if you grab a student, if you wash a student's mouth out with soap, that's corporal punishment under the definition of the law. If a teacher grabs a pupil by the ear to make him/her do something, that's corporal punishment. We're not talking about those things just limited to spanking. In all of those instances where I paddled children, as a high school principal, I never once failed to offer the child the alternative of being suspended from school permanently. We're not talking about a three-day suspension or a ten-day suspension. We're talking about a bottom line permanent suspension by a school board. We've already been through the three-day and ten-day suspension route. Never once has an independent thinking child chosen to be suspended from school because in most of those instances he/she wants an education. He/She wants to be some place where people care what happens to him/her. In most instances students choose corporal punishment because they know that we do care. In many of those instances, they come from homes where parents don't care.

The child should not be restrained in order to receive corporal punishment. If you use restraint, you then get into a situation where a child could get injured. Use of corporal punishment should not involve, needless to say, racial, sexual, social or economic discrimination. The argument that "that's the only language they understand" or that "that child was always beaten at home" is circular. If beating worked, then the child wouldn't be in trouble now. A pampered child from an affluent home would be a more likely person to benefit from a "slap on the ass." Corporal punishment should be used no more than once for a child in a particular school. If the occasion arises where corporal punishment as an alternative is considered but has already been tried, chances are it's not going to be successful the second time. In my experience, I have never found it necessary to use it more than once on the same child.

With the above qualifications, I feel that corporal punishment is a necessary tool for educators. We should stop getting hysterical about the stimulus and concentrate on the needs of the individual and the organization serving that child and thousands of other individuals. The alternatives to corporal punishment are usually less attractive and, in my opinion, much less effective. I am more concerned about the continuous pain caused by boredom, fear, and anxiety among our students. These are things that they face more often than a single occurrence of corporal punishment. In addition, my concern rests with the right of all students to receive an education uninterrupted by a single, individual disruptive student.

I'd like to take just a minute to tell you what happened in Burlington, Vermont. I was invited to speak as an advocate of corporal punishment on the "Good Morning, America" show with Alan Reitman, one of the speakers on the podium this morning. In the State of Vermont, three times, the relatively conservative Legislature turned down legislation to abolish corporal punishment. As a sidelight, this term of the Legislature, which started January 3rd, also had from the State Board of Education a bill for the abolition of corporal punishment. It lasted three days in committee and was killed. Subsequently, the state board deemed it appropriate to regulate corporal punishment by setting up a series of regulations for reporting the instances of corporal punishment which, in itself, was not a bad procedure. No one objected to reporting instances of corporal punishment to the State to prove sufficient cause and documenting the occurrence rate in order to establish a data base. However, the Legislature also attached a regulation which stated that if somebody used corporal punishment and failed to report it, that person could lose his/her teaching license. The administrator responsible in the school could lose his/her teaching license, the superintendent could lose his/her license. You know where that went! The National Education Association opposes corporal punishment, the Vermont Educational Association opposes corporal punishment, the Burlington Education Association, as an association, opposes corporal punishment. However, the teachers do not oppose corporal punishment. Unfortunately, after I got back from New York and the "Good Morning, America" show, my board abolished corporal punishment when the majority of the community was up in arms over the state board's regulation. The Burlington Education Association leadership stood up and applauded. However, of the 401 professional staff employed by the Burlington Public School System, my personal estimate is that 90% of those professional employees insist that it be used as a means of discipline, when necessary, if teachers and administrators are to effectively deal

with some of the students that are in the Burlington Schools.

The deterrent nature of corporal punishment is inescapable. In 1975-76, there were 46 instances of corporal punishment reported to the State from the City of Burlington (State Department of Education, 1976). Eight girls received some form of corporal punishment, the rest were boys. It was not all paddling. Of all the cases that have gone to court in the State of Vermont on charges of criminal assault, not one has been decided in favor of the complainant. The teacher or administrator has been upheld in every single instance. And so, although corporal punishment has been abolished, I work for the school board and therefore I'm not distraught at the fact that it's abolished. I'll work to get it reinstated because I believe in it as a means of disciplining, because we have found that problems have arisen since we've eliminated corporal punishment. For instance, a seventh grade student in Burlington stood up in front of a teacher after being disruptive and told the teacher he could "go plain to hell" because he knew he couldn't be touched. You can see that we have problems in the public schools.

I think it is important to establish the fact that there are alternatives to corporal punishment. There are probably two thousand or two million alternatives, on the bottom line, to corporal punishment. But as other speakers here have said, they are rather expensive because for each individual child, if you're going to have an alternative that you deem more appropriate than corporal punishment, it will be necessary to have people trained in how to implement those alternatives. The university instructors today are not prepared to train the future teaching professionals coming out of college in how to deal with some of our children in the classroom. Until those alternatives are available and used, until the funding is available, then this society must deal with the problems it is faced with currently. Society must get its head out of the clouds and get its feet on the ground in the public schools.

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The Impact Of The *Ingraham* Decision

a paper by

Wallace J. Mlyniec

On April 19, 1977, the Supreme Court decided in a five to four decision that the imposition of corporal punishment can never, no matter how severe, violate the Eighth Amendment's prohibition against cruel and unusual punishment. This decision also held that due process of law did not require a hearing prior to the imposition of corporal punishment. To constitutional law scholars, the case can be seen as a further example of the Burger Court philosophy of limiting access to the federal courts and imposing a very narrow reading of the Constitution. To educators, psychologists and children's advocates, the case can be seen as a reflection of the national division regarding the use of corporal punishment.

In reaching its decision regarding the absence of a federal constitutional right, the Court surveyed the history of the use of corporal punishment in public schools, its current acceptance, the absence of a trend toward its elimination and the existence of a generally open environment in which it is employed. In doing so, the Court found that the Eighth Amendment's prohibition against cruel and unusual punishment did not extend to the public schools. Historically, the case will probably be viewed as much for its significance regarding constitutional law as for its impact on corporal punishment. Nonetheless, the decision's effects on the schools will be immediately felt and publically apparent.

The Court chose to ignore the issue of whether severe corporal punishment is unrelated to any legitimate educational purpose and therefore a violation of the due process clause. However, even the dissenters seemed to adopt the position that moderate corporal punishment would not violate the Constitution. The entire Court did accept the position that the Fourteenth Amendment liberty interest in freedom from bodily punishment and restraint is implicated whenever paddling occurs. The majority believed, however, that current common law protections are adequate to protect that interest.

In terms of the daily enforcement of discipline in the public schools, it appears that the Court merely preserved the status quo. The states may make rules regarding the use of corporal punishment. If they so choose, the citizens of the state or municipality may reject its use entirely through legislation or school board regulations. On the other hand, they may permit the use of corporal punishment if it is restricted by the concept of reasonableness. Traditional considerations are to be used in determining if the punishment is reasonable. These considerations are: 1) the seriousness of the offense; 2) the attitude and past behavior of the child; 3) the nature and severity of the punishment; 4) the age and strength of the child; and 5) the availability of other effective means of discipline. In addition, individual localities may add other considerations against which reasonableness may be measured. When teachers and principals administer punishment in an unreasonable manner, they may be sued in state courts for damages or may be prosecuted criminally. However, federal courts will not be available for the assertion of Eighth Amendment claims.

Even though the Supreme Court recognized a valid liberty interest in being free from punishments, the Court refused to require a hearing prior to any paddling. Again, the Court did not preclude the citizens of a state or municipality from requiring such a hearing. The Court merely ruled that as a matter of federal constitutional law, it is not required.

Although the decision eliminated the use of federal courts in corporal punishment issues, it did little to settle the corporal punishment debate on the local level. While the Justices seem to have condoned the use of corporal punishment, they do not foreclose attacks on excessive punishments in the state courts. In other words, the decision does not "legalize" corporal punishment. It merely reflects the current lack of consensus among educators on the issue and leaves it to the states to determine whether corporal punishment will be permitted.

Certainly civil libertarians and progressive educators have little to cheer about. School administrators, with the concurrence of the legislature or school board, will retain the right to whip children with little or no check on their behavior. Since a hearing prior to the administration of corporal punishment is not constitutionally required, erroneous decisions to paddle which do not result in excessive punishment will continue to inflict pain and humiliation on children. In many such cases a remedy may be unavailable. It should be noted that even if a judgment or conviction can be obtained in the state court, no judgment will remove the adverse effects of the whipping on the child.

What lies ahead for those opposed to corporal punishment is an immense lobbying and public education program to convince parents, legislators and school board members of the dangers of corporal punishment and its lack of educational value. As in other areas of civil liberties, the Burger Court has removed the federal forum as a battling ground for this issue. The struggle must now be taken back to the local jurisdiction and won in legislative debates.

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(This paper was written especially for inclusion in the published proceedings. It was not presented at the conference.)

A Review Of Research On The Effects Of Punishment: Implications For Corporal Punishment In The Schools

a paper presented by

Anthony F. Bongiovanni

The use of corporal punishment as a sanctioned method of controlling children's behavior in American schools poses one of today's most complex and controversial issues for those concerned with the influence of education upon the development of children. To the surprise of many, the hitting of children in school as a means of discipline is far from extinct. In fact, as an institutional practice, it is widespread and often encouraged (Hyman, 1976; *Ingraham v. Wright*, 1976; Mauer, 1974).

The advent of child protection and advocacy attitudes has played an important role in calling public attention to corporal punishment in schools. Many organizations have been established to abolish it as an acceptable practice in American education (Hyman, 1976). The American Psychological Association's Task Force on the Rights of Children and Youth considers corporal punishment a form of child abuse. A federal case to legally abolish or curtail the indiscriminant use of corporal punishment in schools is pending (*Ingraham v. Wright*, 1976).

Central to the issue are questions of the effectiveness of punishment in producing durable behavior change, the various factors which influence punishment, and the incidence and influence of negative side-effects when punishment is administered to children within the school. As one looks to the empirical research on punishment, it is certain that the answers to these questions have not been clearly delineated. This is due to the complexity of the punishment procedure and the limitations of our present experimental designs to isolate and control the numerous factors which influence the outcome of punishment (Azrin & Holz, 1966; Church, 1963; Estes, 1944; Johnston, 1972; Solomon, 1964). Studies concerning the effects of corporal punishment, as one form of punishment within the schools, are non-existent.

Beyond the issues of variable complexity and experimental design lies a more basic issue, that of defining punishment. Punishment has long been associated with the familiar dictionary usage which infers pain, suffering, penalty, and retribution. The intention of punishment is assumed to be the maintenance of authority or order (Mauer, 1974). The field of experimental psychology has only been partially successful in attempting to define punishment more precisely and objectively.

The present literature appears to offer two major definitions of punishment which differ primarily on the issue of the presence of aversiveness. One definition calls for "a reduction of the future probability of a specific response as a result of the immediate delivery of a stimulus for that response" (Azrin & Holz, 1966, p.381). This definition makes no reference to aversiveness. The focus is upon the future reduction of responding. The other definition, which is more prevalent, subscribes to "the presentation of an aversive stimulus consequent upon a response" (Myers, 1975, p.4). This definition makes no reference to response-reduction, but focuses upon the presence of aversiveness. A major problem of the latter definition is the failure of most researchers to demonstrate the actual existence of aversiveness (Bercez, 1973). Therefore, due to the inadequacy in definition, one cannot definitively explain the success or failure of most "punishment" procedures. If aversiveness is indeed a necessary requisite of punishment, it is important to evaluate its presence and its degree when applying punishment to humans (Bercez, 1973).

The effort to empirically define and categorize corporal punishment is particularly difficult and is not without controversial aspects (Mauer, 1974; Myers, 1975). Such attempts are confounded by distinctions made between pain and aversiveness, and whether the pain is physical and/or psychological. In a recent comprehensive review of the punishment research, Johnston (1972) states, "It should be noted that there is neither stated nor intended any implication that the consequent stimulus must be in any way painful to the subject or experimenter" (p. 1034). Yet, the majority of the research under review includes the presentation of shock ranging from mild to severe in intensity.

Myers (1975) makes some noncommittal attempts to classify corporal punishment into the existing literature. He eludes to the painful quality of corporal punishment and defines it as, "pain inflicted upon the body of a person by another with or without some sort of painful instrument" (p.9). He hints at classifying corporal punishment within a "presentation of stimuli" group along with shock, and at the more intense end of an implied continuum of severity. However, he does refrain from explicitly doing so, due to the paucity of research on corporal punishment. There were no attempts to clarify the physical/psychological dimension.

Since corporal punishment, like the presentation of shock, includes the administration of a physical stimulus upon the body and is primarily used to reduce the future probability of a response, this writer contends that they are similar forms of stimulation. In addition, since a reduction in response is the typical consequence, it makes sense that some degree of what our English language defines as pain or aversion is present. Therefore, in this paper, the term "punishment" will be restricted to aversive stimulation applied to an organism. In this respect, aversive stimulation is differentiated from other forms of punishment. The distinction made between animal research performed within the confines of a laboratory and applied research with humans, presents another source of difficulty when reviewing research. It appears that laboratory researchers have failed to recognize, or have underemphasized the reality of education and human customs; while those involved in field research have underemphasized the scientific findings and principles of the laboratory. Such an approach has inevitably resulted in misunderstanding and misinterpretation (Mauer, 1974). In effect, dual approaches to research on punishment have resulted, and at times these approaches are mutually exclusive.

Inherent to the problem of duality is the question of generalizing the results of animal research to humans, especially in light of the paucity of human research in the area of punishment, and particularly corporal punishment. This writer agrees

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that full caution and a sense of conservativism must always be applied when extrapolating the results of animal research to problems of methodology with humans. However, with such caution in mind, there is no valid reason not to utilize the knowledge gained in the area of punishment on animals when examining the issue of corporal punishment in schools. The solution to the problem of generalizability would be to allow research on corporal punishment within our schools. This research would include allowing school personnel to physically strike some children and not others. Only with such research would it be possible to approximate the knowledge gained with animals. Such a solution would be extremely limited in application due to the stated moral, social, and ethical taboos of American society (Baer, 1970; Johnston, 1972; Solomon, 1964). This writer does not advocate full-scale research on the effects of corporal punishment in the schools. However, it is highly ironic that on the one hand we view such research as morally and ethically wrong; while on the other, we legally allow and often advocate the use of corporal punishment within the schools.

The purpose of this paper is to review in a systematic manner the empirical research on punishment and the numerous factors which influence its effectiveness. Unlike other reviews (Azrin & Holz, 1966; Church, 1963; Estes, 1944; Johnston, 1972; Solomon, 1964), the findings will be directly applied to the question of the efficacy of corporal punishment in the schools. In applying the research findings, it is necessary to recognize two basic assumptions of education. The first is that any educational method should be used as effectively as possible to maximize the potential of the child. The second is that the best interest and welfare of the child should always be paramount to school personnel. In light of the reviewed research on punishment, this paper will demonstrate that corporal punishment cannot be effectively applied in the schools and that the use of corporal punishment is potentially harmful and contrary to the best interest and welfare of the child.

The characteristics of the punishing stimulus itself have been found to influence the ultimate effectiveness of punishment (Azrin & Holz, 1966). Five such characteristics have been identified which should be adhered to as closely as possible, even with humans. First, the punishing stimulus should be accurately described and measured. To the extent that such preciseness is not possible, the future use of the same stimulus may yield different results. School personnel would find it extremely difficult, if not impossible, to define and measure the intensity of slapping or paddling. Second, during the application of punishment, the stimulus should have consistent contact with the subject. Such contact or impact again would be all but impossible to define in the classroom. Third, the punishing stimulus should not allow for any escape or behavior which would minimize the effect of application. Therefore, any escape behavior on the part of the student, such as running away or even flinching, would tend to minimize the effectiveness of a slap or paddling. Fourth, there should be few skeletal reactions to the stimulus, for such reactions would also tend to minimize the effectiveness. Such control is not even achieved within the confines of a laboratory, much less within a classroom. Fifth, the intensity of the punishing stimulus should be variable so that differential effects may be produced. Again, such control over the intensity of a blow would be unlikely. Therefore, from the empirical standpoint of creating an effective punishing stimulus, school personnel would not be likely to approximate such criteria. If by some miracle, school personnel were able to acquire such characteristics, there would surely be no place for such a "person" within a school.

Once the punishing stimulus is specified, the manner in which it is introduced has received much attention in the research (Azrin & Holz, 1966). The most effective means of introduction appears to be comparable to complete surprise, with no anticipation of the occurrence of punishment. When punishment is applied suddenly, the initial response reduction is greatest. As punishment is introduced more gradually, the subject has opportunity to become habituated, and may continue to respond at a high level regardless of any subsequent increase in punishment (Azrin, Holz, & Hake, 1963; Masserman, 1946). The degree of response suppression is also contingent upon the manner of introduction. It has been demonstrated that gradual introduction produces less suppression (Azrin, 1959a, 1959b). This information would suggest that school personnel be able to apply corporal punishment with an element of surprise. The child should receive no anticipatory cues. Such a capability would be highly limited within the classroom, time consuming, and contrary to the role of school personnel in education.

Related to the manner of introduction is the relationship between the timing of the punishment (immediacy of delivery) and the occurrence of the undesired behavior. The most effective use of punishment calls for application which is almost simultaneous with the occurrence of the behavior to be reduced (Azrin, 1956, 1958; Azrin & Holz, 1966; Parke & Walters, 1967). Any delay in punishment leads to a lowered degree of effectiveness. The form of the delay of punishment gradient is directly proportional to the length of the time delay (Banks & Vogel-Sprott, 1965; Butler, 1958; Camp, 1965). Therefore, school personnel would need to be minute men, ready to jump at the detection of undesirable behavior. One may wonder how such an ability would effect the classroom process.

The issue of timing poses a complex and potentially dangerous problem for school personnel. Human behavior is not simple and isolated. Rather, behavior occurs in complex sequences of events or motions, with each event capable of influencing the next. The execution of an undesirable act consists of initial or preparatory behaviors which may be very subtle and undetectable. As the sequence continues, these behaviors may become associated with reinforcement, which will tend to maintain or facilitate the development of the behavior sequence (Mower, 1960a, 1960b; Solomon, 1964; Walters & Demkow, 1963). Therefore, to suppress an act, it is beneficial to apply punishment during the initial or preparatory stages in order to achieve maximum effectiveness. This appears to be particularly true with human behavior (Aronfreed, 1965; Aronfreed & Reber, 1965; Birnbrauer, 1968; Walters & Demkow, 1963; Walters, Parke, & Cane, 1965). As one waits for the act to be completed prior to applying punishment, the risk of having the effects of punishment counteracted by reinforcement increases with time (Walters & Demkow, 1963). In administering corporal punishment, it seems that school personnel would experience problems in attempting to adhere to immediate application. The detection of the subtle, preparatory behaviors may prove to be impossible in light of the number of children in a classroom and the busy time-schedule of personnel.

Still another problem is present in relation to timing and delay. Research indicates that many behaviors, which may be

separate from the undesired behavior, can occur during delays in the application of punishment (Johnston, 1972). Therefore, delayed delivery of punishment increases the likelihood of actually punishing a behavior quite different than the behavior in question. Such punished behavior may be very appropriate to school. The common method of punishing a child after school for behavior which occurred in the morning is doomed to failure.

The intensity or strength of a punishing stimulus has been a factor which has received much attention in testing the effectiveness of punishment. In general, the higher the intensity, the greater the response suppression (Azrin & Holz, 1966; Church, 1963; Johnston, 1972; Solomon, 1964; Parke & Walters, 1967). At lower levels of intensity, the punishing stimulus may serve as a cue to future behaviors, a discriminative stimulus, a response intensifier, or a secondary reinforcer. Each of these effects, which will be discussed later, may serve to reverse the intended effect of punishment. The inhumane implication for school personnel is that the most intense blow should be used to maximize effectiveness. Inherent in such an implication is the danger of inflicting physical damage.

However, intensity-of-punishment-studies on children have demonstrated that the effects of various intensities may well depend upon the task or behavior in question (Aronfreed & Leff, 1963; Feldman, 1961). In general, the higher the intensity, the greater the response suppression, provided that the task is relatively simple in nature. On tasks which are more complex, high intensity punishment tends to be less effective. One explanation is that at high levels of intensity the punishment of complex behaviors may lead to a level of anxiety which is not conducive to learning (Aronfreed & Leff, 1963). Intensity poses a very practical problem for school personnel, in that there is no simple or efficient manner of knowing how intense a blow is, nor is the human control of such behavior consistent over time. The issue is further complicated by the distinction made between simple and complex behavior.

The scheduling of punishment, or how often punishment should be applied, is another important aspect to be considered. Thorough studies have demonstrated that punishment is most effective when it is applied to each and every occurrence of the undesired behavior (Azrin, Holz, & Hake, 1963). Varying the application over ratio or interval schedules yields less effective results (Azrin & Holz, 1966). Studies of interval punishment have demonstrated that responding will continue at lower levels until just prior to the anticipated punishment, at which time it will approach a rate of zero (Appel, 1968; Azrin, 1956). Therefore, the anticipatory effect related to the onset of punishment allows for the maintenance of the behavior when punishment is not imminent. Research with humans on the effects of various schedules of punishment (even non-physical types) is lacking. Such research would prove helpful to those concerned with the application of punishment in applied settings (Johnston, 1972). The present implication for school personnel is that undesired behavior should be punished on each occurrence for the most effective results. Any application less than such will allow for the occurrence of the behavior at some consistent rate. The ability of students to anticipate when they are in fact to be punished detracts from maximal effectiveness. To be constantly aware of undesirable behavior and to take the time to punish that behavior on each occurrence would require the majority of school personnel time and attention. The focus of education would unnecessarily be upon undesirable behavior, rather than learning and the fostering of desirable behaviors.

When employing a punishment procedure as a means of reducing undesirable behavior, it is imperative to ascertain how long and to what extent that behavior has been maintained by reinforcement. In short, how strong is the behavior to be eliminated? The fact that such behavior exists is evidence that it has a history of prior and concurrent reinforcement. In such circumstances, punishment is usually employed to counteract the concurrent reinforcement with the intention of decreasing the frequency of the behavior (Azrin & Holz, 1966). In general, the greater the history of the reinforcement of a behavior (especially concurrent reinforcement), the more resistant that behavior will be to the effects of punishment. Therefore, any reduction in the reinforcement of an undesired behavior will serve to facilitate punishment. To the extent to which concurrent reinforcement is allowed to exist, there will be resistance to punishment (Azrin, 1956, 1959b, 1960a, 1960b; Azrin, Holz, & Hake, 1963; Brethower & Reynolds, 1962; Holz & Azrin, 1961). Behavior maintenance by sources of reinforcement presents a major problem in utilizing punishment in applied settings such as schools. It is highly impractical, and probably impossible, for school personnel to control and eliminate the numerous sources of reinforcement of a particular behavior deemed as inappropriate in schools. Many behaviors such as talking, laughing, and moving about are frequent, daily behaviors which occur at various times and in numerous settings. Such behaviors often result in pleasure or reinforcement which tends to strengthen or perpetuate them. Within the school setting, such behaviors are not only required at various times but are permitted and encouraged to varying degrees by different personnel. To control and attempt to minimize the reinforcement of such behaviors, in order to maximize the punishment of them in a particular class, would require a comprehensive analysis of the child's life. Such a task is beyond the capability of most school personnel.

The availability of a second response or alternative behavior, which is reinforced and not punished, has been found to facilitate the reduction of a punished behavior (Herman & Azrin, 1964; Holz, Azrin, & Ayllon, 1963). It appears that in a punishment situation where a previously reinforced behavior is being punished, the presence of an alternative behavior which is capable of earning similar reinforcement will make the individual less likely to behave in a manner which will be punished. In the majority of cases where corporal punishment is used, the child is not offered an alternative response which is appropriate and reinforced. Once again, the focus is upon undesirable behavior and not upon the creation of desirable behavior, which would be more conducive to education.

A punishing stimulus, like any other, may come to serve as a discriminative stimulus or signal for some forthcoming event that may ultimately hinder or facilitate the effects of punishment (Azrin & Holz, 1966; Holz & Azrin, 1961, 1962). When punishment signals the subsequent occurrence of reinforcement within the environment, the effects of punishment tend to be negated. As a result of signaling reinforcement, humans have demonstrated both maintenance of punished behavior (Ayllon & Azrin, 1966) and even an increase in the rate of the punished behavior (Azrin, 1958), in order to receive the subsequent reinforcement. In such instances, the individual actually works for punishment and seemingly enjoys doing so. Therefore, it is always preferable to have punishment signal that no reinforcement is forthcoming in order to produce the desired effects of punishment. Such a situation requires both a thor-

ough knowledge of what is reinforcing for the individual and the ability to control such events (Lovaas & Simmons, 1969). The school situation may be particularly resistant to such safeguards since a multitude of social reinforcement may maintain or even increase undesirable behaviors. Personnel may have to control for peer attention, laughter, etc. as possible contributors in maintaining undesirable behavior. A student who does not enjoy participating in a certain class or exercise, may actually come to enjoy a paddling which keeps him or her from having to participate. In such a case, the behavior which led to the paddling may be strengthened. Again, school personnel would be inadvertantly working toward their own and the child's peril.

As stated previously, it is preferable to have punishment signal the absence of reinforcement. However, this situation may also be to the disadvantage of the child if he or she must be kept from participating in enjoyable activities that facilitate the educational process. By isolating a child after paddling, he or she is kept out of the educational process and is placed within a vulnerable situation which may in turn come to acquire reinforcing properties.

Thus far, we have discussed specific variables which have been demonstrated to influence the effectiveness of punishment in reducing the frequency of a behavior. Research has also identified characteristics of the punishing process—in total, which may be applied to certain questions about the outcomes of punishment (Azrin & Holz, 1966). A frequently asked question is, "How rapid are the effects of punishment?" If punishment is indeed effective, (and this is dependent upon the variables previously discussed), the effects are immediate and drastic in reducing the rate of the behavior. This phenomenon has been well documented in animal studies (Azrin, 1956, 1959a, 1959b). With humans, the initial effect is even more dependent upon the control of the discussed variables, and thus results in more variation (Johnston, 1972).

The duration of effect and the permanence of response suppression is another major concern. The permanence of suppression, or the actual decrease in the rate of the behavior in question, appears to be a direct function of the intensity of the punishing stimulus. Depending upon the intensity, response suppression can range from slight to absolute zero (Azrin & Holz, 1966).

The recovery of punished behavior has been demonstrated to occur both during and following the punishment procedure, and is primarily a function of intensity and schedule of punishment. Recovery during punishment is primarily a function of punishment intensity. When intense levels of punishment are applied to each occurrence of behavior, little or no recovery may be expected. Lower levels of intensity can be expected to yield varying rates and degrees of recovery (Azrin, 1956; Holz & Azrin, 1962a; Hake & Azrin, 1963, 1965). Even under well controlled conditions, unexplainable increases in behavior have been observed (Azrin & Holz, 1966). When punishment is actually terminated, there is generally an increase in punished behavior. Such increases should be expected unless specific steps have been taken to avoid the post-punishment rate increase (Johnston, 1972). Following the termination of continuous punishment, increases in response rate which actually exceeded the unpunished level have been demonstrated. Such compensatory responding occurred temporarily and then returned to the unpunished level (Azrin, 1960b). The presence of compensatory responding appears to be a function of intensity and prior suppression.

In contrast to the immediate recovery of behavior which was punished continuously, intermittent punishment tends to produce a more gradual increase in the recovery of the punished behavior (Azrin, Holz, & Hake, 1963). In studies performed on humans, the recovery in response rates following the termination of punishment varied from being immediate (Baer, 1962; Barrett, 1962), to gradual (Risley, 1968), to none at all (Banks & Locke, 1966; Hamilton & Allen, 1967; Lovaas & Simmons, 1969). The type of recovery will depend upon the control and relationship of the variables discussed, especially those of intensity, punishment schedule, and the amount of concurrent reinforcement available. In light of the difficulty of controlling such variables within the school setting, educators should expect the recovery of the undesired behavior following punishment. Unless all variables are constantly controlled, the efficacy of corporal punishment as a method of producing durable change in undesired behavior is extremely limited.

The generality of punishment effects is another major question. Will the behavior punished in one situation generalize to other situations where it is not punished? In general, the effects of punishment tend to be specific rather than general. Initially, there may appear to be a lowered level of responding in a situation where the response has not been punished. However, such an effect is very temporary and usually leads to a higher level of responding in the non-punishing situation (Azrin & Holz, 1966). Therefore, the sharpening of the difference between the presence of the punishing stimulus in a punishing setting, and its absence in a non-punishing setting, tends to decrease the probability that a behavior will be reduced in non-punishing situations (Terrace, 1966). Since behavior is maintained by the flow and sequence of stimuli within the environment, it is inappropriate to expect the effects of punishment to generalize to different settings (Baer, Wolf, & Risley, 1968; Birnbrauer, 1968; Risley, 1968).

Johnston (1972), in his review of the generality effect of punishment, eludes to the problems a teacher may encounter when using punishment to decrease the out-of-seat behavior of a child. With the appropriate control of variables, the teacher may be successful in reducing such behavior in the homeroom where he or she is in charge. However, to decrease such behavior in following classes, special arrangements of the environments will be necessary and other teachers may have to implement the same punishment procedure. Nonetheless, the results cannot be guaranteed nor should they be expected. When corporal punishment is the method of choice, the child may need to be physically punished in several different classes and by a number of teachers. Such coordination may be difficult to establish, and the social controls, all but impossible to achieve.

As stated previously, an educational method should be used as effectively as possible. By reviewing some of the basic principles in which the punishment procedure is arranged for maximum effectiveness (Azrin & Holz, 1966), it is possible to create a hypothetical procedure for using corporal punishment most effectively. At the outset however, it should be made explicitly clear that the purpose for outlining the following hypothetical procedure is to illustrate how impractical such a procedure would be, and to demonstrate its inappropriateness in a humane and educational school setting.

1. The individual administering the punishment should arrange the environment in such a manner as to prevent the student from escaping.

2. The individual administering the punishment should use as intense a blow as possible.

3. The same form of punishment should be applied each and every time the undesired behavior occurs.

4. The punishment should be delivered immediately, preferably during the preparatory stages of the undesired behavior.

5. The punishment should not be introduced gradually, but quickly and with the element of surprise.

6. Extended periods of punishment should be avoided, so as to curtail any compensatory recovery.

7. The punishment should not be associated with any forthcoming pleasure or reinforcement in order to avoid the punishment becoming a discriminative stimulus for reinforcement.

8. Strict control over sources of reinforcement of the undesired behavior should be exercised at all times.

9. Alternative behaviors which are capable of earning the same reinforcement as the undesired behavior should be made available.

Beyond the absurdity of the above school situation, it must be stressed that the successful use of punishment cannot be reduced to these basic principles alone. Each case is unique and requires individual analysis of the behavior in question. To the extent that a comprehensive analysis of the behavior cannot be made, the ultimate effectiveness of punishment will decrease.

Inherent in the use of punishment is the potential of producing a number of negative side effects which may serve to hinder the effectiveness of punishment and to facilitate the development of socially disruptive and aggressive behaviors.

In applied settings, such as schools, punishment may result in uncontrollable changes in the environment which affect the frequency of the undesirable behavior after punishment has been terminated (Johnston, 1972). Several studies have demonstrated a sudden increase in new behaviors following punishment (Lovaas & Simmons, 1969; Risley, 1968; Wolf, Risley, Johnston, Harris, & Allen, 1967). Although the reported changes in these studies were positive in nature, they were uncontrolled, unexpected, and fortuitous. Therefore, undesirable behaviors may have resulted following punishment. The post-punishment behavior patterns must always be considered, since they may serve to facilitate or complicate the reduction of undesirable behavior (Johnston, 1972). School personnel should therefore consider and attempt to anticipate the possible classroom changes which may occur after a child is physically punished.

The use of punishment has been demonstrated to produce strong emotional concomitants (Brady, 1958; Maier, 1949; Soloman & Wynne, 1954). The effects of aroused anxiety and stress may have a profound influence on subsequent behaviors and tasks. Illustrative of the strength of conditioned anxiety is the prominence of behavior therapy techniques, such as aversion therapy and sensitization, to inhibit undesirable behaviors (Wolpe, 1958). Research on punishment often depends upon the gross observation of behaviors designated as "emotional." Often, such behaviors are considered important for discussion only if they result in chronic behavior disturbances (Azrin & Holz, 1966). Emotionality does not have to appear in observable behavior, especially in relation to humans. To the extent that stress may result from physically punishing a child, school personnel need to evaluate its possible negative effects upon personal, social, and academic development.

Of prime importance is the potential of punishment to produce socially disruptive behavior. "It is in the area of social disruption that punishment does appear to be capable of producing behavioral changes that are far-reaching in terms of producing an incapacity for an effective life" (Azrin & Holz, 1966, p. 439). When a specific behavior is punished, we usually expect that behavior to decrease, while expecting relatively no change in other behaviors. However, punishment tends to negatively reinforce any behavior which is successful in terminating or avoiding the punishment. In this respect, any behavior which a child finds to be successful in terminating or avoiding the punishing stimulus will be strengthened. Such a side-effect may appear especially relevant to the increasing incidence of truancy, tardiness, and dropping out of school (Azrin & Holz, 1966). To the extent that a student employs one or more of these behaviors, he or she may be successful in avoiding or escaping further punishment. Since the school environment offers a major source of personal, social, and cognitive development, such negative side-effects represent a major problem. Azrin and Holz (1966) state:

> The end result would be termination of the social relationship, which would make any further social control of the individual's behavior impossible. This side-effect of punishment appears to be one of the most undesirable aspects of having punishment delivered by one individual against another individual since the socialization process must necessarily depend upon continued interaction with other individuals. (p. 440)

For obvious reasons, such an incident within the school would tend to have a devastating effect upon the student-teacher relationship which, in turn, would negatively effect the educational development of the student.

Aggressive behavior as a form of retaliation against punishment is another potential negative side-effect which warrants much concern. Research has identified two types of social aggression which often result from the use of painful punishment. The first type, called operant aggression (Delgado, 1963), is a direct attack against the source of the punishment with the intent of destroying or immobilizing the punisher. It appears that such aggression is maintained by the potential favorable consequence of terminating the punishment. When such behavior is successful, it becomes a negative reinforcer and is more apt to occur in the future under similar circumstances. The implication for school personnel using corporal punishment is obvious, especially at the junior and senior high school levels.

The second type of aggression is termed elicited aggression (Ulrich & Azrin, 1962). Elicited aggression appears to occur when an individual is physically punished in the company of others. Unlike operant aggression, elicited aggression is directed towards others in the environment and not at the source of the punishment. The incidence of elicited aggression has been demonstrated to exist in several species and to be elicited by several forms of painful stimuli (Azrin, 1964; Azrin, Hutchinson, & Sallery, 1964; Hutchinson, Ulrich, & Azrin, 1965; Ulrich & Azrin, 1962; Ulrich, Wolff, & Azrin, 1964). Therefore, elicited aggression appears to be a general response to painful stimulation. Azrin and Holz (1966) state, "Since physical punishment requires the delivery of aversive stimulation, this social aggression would be expected as an

elicited reaction to physical punishment" (p. 441). Again, the implication for school personnel is obvious. However, with elicited aggression, innocent classmates who have no relationship to the undesired behavior under punishment may be the target of physical aggression. The safety and welfare of other students should be a major concern of school personnel who use corporal punishment.

In addition, inanimate objects have also been demonstrated to be the targets of elicited aggression (Azrin, Hake, & Hutchinson, 1965; Azrin, Hutchinson, & Sallery, 1964). Therefore, the damage of physical property such as books, desks, and windows may also be expected as a result of corporal punishment.

When considering the potential for avoidance behavior, operant aggression, and elicited aggression as negative side-effects of punishment, Azrin and Holz (1966) state, "These three disadvantages seem to be especially critical for human behavior since survival of the human organism appears to be completely dependent upon the maintenance of harmonious social relations" (p. 441).

Finally, the use of corporal punishment by school personnel provides the child with a real-life model of aggressive behavior which has been demonstrated to be imitated by young children (Bandura, 1962; Bandura, Ross, & Ross, 1961, 1963; Bandura & Walters, 1963). Not only do children imitate such aggressive behaviors, but they also tend to employ these aggressive behaviors when faced with frustration in their own lives. In a study in which children observed a model being punished, a learned fear reaction was demonstrated to have occurred although they were not the recipients of any punishment (Berger, 1962). The implication for school personnel is that the use of corporal punishment may provide a living model of aggression which may be imitated by the classroom children. Such a model may provide a problem-solving method which can be utilized by the child in various settings. In addition, by visibly punishing a child in the presence of others, the other children may become fearful and anxious. Such conditions are not conducive to socialization or learning.

The available research on punishment, when applied to corporal punishment in the schools, suggests that corporal punishment is ineffective in producing durable behavior change, is potentially harmful to students and personnel, and is highly impractical in light of the controls necessary for maximal effectiveness. The maximal effectiveness of corporal punishment can only be achieved by close adherence to the basic principles and factors which have been shown to influence its ultimate effectiveness as a behavior-reducing method. In light of the role of school personnel in education and the welfare of the student, corporal punishment appears to be impractical, time consuming, and contrary to the goals of education.

The potential of social disruption constitutes the primary disadvantage of corporal punishment. In light of these negative side-effects, the possible reduction of undesirable behavior should clearly be secondary in importance. The need for discipline and adherence to rules is a necessary part of education. However, there are several alternatives to corporal punishment which may be utilized by school personnel.

Those who defend the use of corporal punishment as a practical method tend to view the practicability issue from the perspective of school personnel only. As a method, it can be applied by anyone, there is no need for any type of specialized training, it can be applied in all settings, and no special equipment is necessary. The fact that most school personnel are physically stronger than the children makes corporal punishment especially attractive. In defense of corporal punishment, Killory (1974) cites four criteria of punishment which should be considered. First, it should result in the greatest behavior change. Second, it should demand the least effort on the part of the user. Third, it should result in behavior that is relatively permanent. And fourth, it should produce minimal side-effects. This writer contends that each of these criteria have been negated by the available evidence presented in this paper.

In conclusion, education in America should reflect the most advanced state of research knowledge and moral development. Only school children may be punished physically in our society. The remarks of Azrin and Holz (1966) seem especially appropriate, "At the institutional level, it would seem to be quite possible to eliminate the use of physical punishment. Conceivably, administrative regulations could be altered such that public punishment in the form of flogging, spanking, or other physical abuse would be excluded" (p. 438). However, official regulations need not be prerequisite to end the use of corporal punishment within the school. School personnel are capable of evaluating the efficacy of corporal punishment on an individual basis and making a personal decison not to utilize it within their own classroom. This writer hopes that the data and potential dangers discussed in this paper will provide enough evidence for school personnel to adopt alternative methods of discipline and to end the use of corporal punishment against students.

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All In The Name Of The 'Last Resort'

remarks of

Adah Maurer

The most common defense of corporal punishment in the schools is that it is used rarely (and then with thoughtful discretion), and only as a last resort after all other means of correction have been tried. This is a dearly held delusion. Definitive data cannot be produced to prove or disprove such claims since no national survey has ever been attempted. Psychologists beginning with Freud and Adler, as well as many essayists and educators before them (Plato, Plutarch, Montaigne, John Stuart Mill, Roger Ascham, John Locke, Horace Mann), have condemned the practice. Nonetheless, it has yielded to opposition only very slowly and with many periods of backsliding, to judge from the literature of Rousseau, Dickens, Thackery, Lamb, Orwell, Kipling, and many more. We have few statistics and what few we have are suspect since confessions of minimizing numbers to appease local prejudgments are faily common.

What might be learned from a complete study is suggested by a look at three mini-surveys done in Dallas, Texas; Miami, Florida; and in the state of California. In 1972, the City of Dallas recorded 24,305 paddlings for a school population of approximately 330,000. The number of unreported incidents may have been many times that number according to student stories (Duncan, 1973). In 1974 a report mandated by a resolution of the Legislature of the State of California included responses from 92 percent of the school districts but not including the City of Los Angeles. Reported were 46,022 cases of the use of corporal punishment with only five percent of these in the high schools (Riles, 1974). The third and most recent survey was made at the behest of the Office of Civil Rights of the Department of Health Education and Welfare. The figures and details for the City of Miami, Florida were reported in the *Miami News* (1976). Since the survey was undertaken primarily to discover whether minority students were subjected to corporal punsihment more than white students, the first finding was that indeed black students took the brunt of the paddlings. Although only 28 percent of the student population is black, 67 percent of those punished were black. But one could make a case that the overall number of incidents was of far greater import than particulars of skin color.

The Miami survey covered the first 45 days of school in the fall of 1975. During those 45 days, Northwestern Senior High School recorded 193 paddlings, or four to five every school day. At Westview Junior High the self-reported score was 307; that means that if there is a seven-period day, not a class period went by without someone taking a beating. On the other hand, 99 schools (out of 242) reported no instances. Either they managed to conduct school without fear, force and pain, or they were ashamed of their occasional lapses and chose not to confess them. Considerable publicity went to a Mr. "K." who proudly displayed a fan of paddles from the closet where he kept the old ones after they had been fully inscribed with the signatures of the victims. He claimed he paddled with "love," although psychologists have labelled the paddling of the anal erotic area as symbolic sodomy. His words? "Like a mother stroking her little child."

So much for surveys. The United States Office of Education and a number of other federal agencies have been approached since 1975 with the suggestion that a nationwide assessment be made of the amount and kind of corporal punishment in use. We realize what we are asking is presumptuous. Educators are known to be difficult to motivate and some school boards are less than cooperative. The form requested by the Office of Civil Rights has drawn fire from school officials. The Houma, Lousiana *Courier* (1976) covered a local school board meeting and reported one member as complaining, "You got to go through an act of Congress just to give a kid a little spank!" A Pennsylvania board member said, "The question really is—Should we teach the three R's or fill out federal forms. It's that bad" (*Daily Local News*, 1977). One sympathizes. But would they rather the FBI fan out over the country spying on them? Branches of commercial firms would not dare object to reporting their losses. Self examination is good for mental health.

Lacking better data we have turned to other sources in our effort to document that corporal punishment is used often and harshly. Since November of 1972, our organization, End Violence Against the Next Generation, Inc., has published the *Last ? Resort*, a newsletter with the avowed purpose of collecting and disseminating information about corporal punishment. Sponsors, readers and well wishers have responded with descriptions of incidents known to them; with newspaper articles, editorials, and letters to the editor; as well as with reports of bills introduced into legislatures, and local school board debates and decisions. To add to this we subscribed to a clipping service in November, 1976 that produced an avalanche of articles from all over the country. Every Monday morning there arrives in my mail a packet of clippings which I sort, continually amazed at the ingenuity with which school people create new forms of baiting to induce bad behavior in children. The *Tucson Star* (1976) told a "hilarious" story about a retired home economics teacher overly sensitive to noise, who was assigned to substitute with a class of 58 band members. She demanded pin-drop quiet while calling the interminable role. A chair collapsed; she accused them of throwing chairs and turned off the lights. Naturally, chaos erupted. Fifty-eight suspensions and angry parents caused a day's work to be lost. A tempest for nothing. "We would have been quiet if she'd let us play music," said a sensible sophomore.

Winnowing through this mass of material we have retrieved enough tales of scabrous behavior on the part of presumed educators to convince all but those most determinedly blind because they refuse to see. Corporal punishment in American schools is a national disgrace. It is not rare. It is not used only as a last resort—and as bad discipline it drives out good. Some of the stories are distributed by the news services and are used by those of their subscribing newspapers that choose to run them. Others are purely local dispatches by the education editor on the deliberations of the school board in the area served. Some incidents appear and reappear in succeeding editions, often with embellishments and sequels, although the final disposition of cases is hard to find. The most popular stories are those that permit the punning propensities of the headline writer to move into high gear. I have also made the observation that when the circulation is small, joking takes precedence over seriousness. In other words, rural America

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still treats spanking as scatological humor. That is one reason I doubt the findings of those who see paddling as racist. Rural America is predominantly Caucasian and unless you label "poor white" as a minority, I think we shall find that it is the children of poor and under-educated families who are physically punished rather than the children of black families per se.

The most widely reported story was the cigarette eating case. Told with a variety of humorous headlines was the incident involving Principal Hightower of the Hume High School of Hume, Missouri, whose standard response to boys caught with cigarettes in their pockets was: Eat them or bend over. In all the years of his little joke, no boy had ever chosen to do anything but to accept the swats. But Bill Adkins and Terry Weatherman were made of sterner stuff. They took the dare and ate 18 cigarettes between them. Both became ill. Bill had to be hospitalized for ulcers. His mother, Katherine Adkins, demanded that Principal Hightower be fired. The school board predictably backed him, and he announced that the penalty would continue unchanged. A week or so later, the president of the Student Council was caught in the same delictum. He not only took his swats but at a press conference announced his total loyalty to Principal Hightower and Hume High. My guess is that he thinks such toadying constitutes first steps up the McCarthy/Nixon type political ladder. Maybe he is right.

Mrs. Adkins has been subjected to harrassment from the community. Night riders buzzed her home in the woods and attempted to nudge her car off the road. The Adkins family has no well or other source of water except by truck delivery. The water supplier, a member of the Hume Board of Education, refused to haul her weekly supply and persuaded his competitor not to serve them either. She refused to send Bill to school and said she had been warned that he could be sent to a State Training School. The American Civil Liberties Union agreed to take the case and to ask for an injunction to prevent further impositions of the penalty of ingesting poisons and to secure damages for the beleaguered families (*Nevada Herald*, 1976).

A majority of the cases that go public are accusations of cruelty by coaches. Raymundo Castro was required to do pushups over an open knife by Coach Bill Vanhorbieke, claimed the Asociacion Educativa de Padres Mexicanos (*Fresno Bee*, 1974). A follow-up story recounted the outrage of Fresno, California coaches at a presentation on ABC television which dealt with high school football injuries. In the documentary, a Florida high school coach was shown slapping and tossing his players around physically. The anger of the Fresno coaches against ABC was for using an "extreme example" and for making all coaches look like "oafs, dummies and unconcerned with the welfare of the players." The *Fresno Bee* chided them for not recognizing an "extreme example" and oafishness in their own back yard. They then added to the story the fact that Raymundo had been told that the knife would be used every day until he did the pushups right. But it was the reporter, not the coach, who discovered that the 9-year-old had had an accident some years before and one arm could no longer be fully extended.

In Detroit, Michigan the state court of appeals reversed the manslaughter conviction of a swimming instructor who was charged in the drowning of an emotionally disturbed student at a special school. Testimony at the trial showed that the boy drowned after the coach had thrown him into the pool three times on the "sink or swim" theory (*Holland Evening Sentinel*, 1975).

In Sarasota, Florida a coach at an elementary school was incensed because five boys caused him to waste 15 minutes of class time. He required them to stay after school. If this had been taken as time to have a confidential talk about cooperation, the uses of team time, or some such pertinent topic, there could have been little objection. Instead, Coach McGary used a gym class rope to tie the 9-year-olds together by attaching it to their belts. He "strung them up like clothes on a line," said the state attorney's office. McGary then allegedly fastened the rope to his motorcycle, started the engine and dragged the boys through the parking lot. He later treated them for cuts, scrapes and bruises. Their clothes were torn. The coach was charged with a misdemeanor (*San Francisco Examiner*, 1976).

In Brunswick, Georgia a new school board ruling requires that if any physical punishments are to be administered, it must be by the principal or assistant principal and there must be a witness. Coaches sometimes think they are a law unto themselves; Coach Ben Young felt free to paddle a 15-year-old who had forgotten his gym shorts without attention to protocol. His reasoning? The boy had asked for it. Therefore it was not punishment. It was must a reminder. When the father brought pictures of the bruises, the coach said, "If there were any marks on him they were the result of scabies. He was always scratching himself." Was the coach suspended for breaking the rules? No, the boy was (*Brunswick News*, 1976).

With coaches, corporal punishment seems more in the nature of an initiation or coming of age rite than a serious effort to inculcate learning. In Washington State the penalty for the last man in a cross-country squad was a "whacking" (*Seattle Post*, 1976). In Corry, Pennsylvania for kicking the ball high enough to hit the ceiling during the game of kickball, a paddling was in order (*Times-Observer*, 1976). When a father complained, he was assured that this was not considered punishment; indeed it was nothing more than a harmless diversion. The coach described it as "ritual purely for laughs" even though it resulted in raised welts and bruises. No one asked the recipients if they thought it was funny.

The Texas *Canyon News* (1977) reports in a nostalgic editorial about "The Coach and the Fat Kid":

> Eugene McBrayer was a fat kid and The Coach hated fat kids.
>
> Eugene wore thick, super-thick, glasses that turned his eyes into tiny dots, and The Coach apparently equated this with hateful physical weakness.
>
> Eugene wore ragged gym clothes. He couldn't climb the ropes. He couldn't chin himself. He couldn't do pushups.
>
> Eugene infuriated The Coach, a paunchy tough-talking, short-haired martinet.
>
> So The Coach taught the boys in third period gym at Austin Junior High our most valuable lessons of those years.
>
> He taught us more about the abuse of power than our children learned from Watergate. He taught us more about the brutality innate in the human spirit than our children will learn from the Bible. He taught us that physical violence can be effective only when accompanied by mental torment or torture.
>
> I'm sure Eugene would rather have fought demons in Hell than come to third period gym class.
>
> The Coach attempted before 50 witnesses, premeditated murder on a human spirit, and Eugene, tears

refusing to fall, his frame shaking with anger and humilitation, could only draw from within himself the strength to repel his assailant.

Eugene finally left school.

The Coach, after that year, was promoted to a position in the school administration.

The rest of us will never forget Eugene McBrayer. We'll never forget The Coach.

And probably we'll never look benignly on the indiscriminate use of what school officials routinely refer to as discipline, particularly if that discipline is administered by men teachers or coaches in a physical manner.

Some coaches have heard the word and are changing. From Renton, Washington: "The old discipline method of coaches giving an obnoxious kid a whopping with the tennis shoe is gone . . . The philosophy behind the [new] procedure . . . is to have a student take responsibility for his or her own behavior" (*Record*, 1977). And from Alexandria, Louisiana, "It has been traditional to whip junior high school football players at Buckeye High for making poor grades, but the practice has been discontinued . . ." (*Daily Town*, 1977).

The tales of coaches misinterpreting their mandate to develop character by "hardening" their charges is giving way far too slowly. But they are not the only ones who misuse their authority over children. The custom of cruelty as a deterant begins before kindergarten. Tony Johnson was 2 years old and it was his first day at nursery school. He cried when mother left, a not uncommon behavior for 2-year-olds. That evening as his mother prepared him for bed she discovered that his back was covered with 25 to 30 welts, red and swollen. The teacher, Mrs. Webb, was miffed at having to explain to a judge, "I have never received a complaint before and I've been in the business for 15 years!" She had switched him "a time or two" for crying. The grand jury in Shelbyville, Tennessee will let her explain (*Nashville Tennessean*, 1976).

From the *Memphis Scimitar* (1976) comes the tale of two kindergarten teachers who used a tacking iron to laminate name tags. It seemed a handy weapon and thus they began to use it as a "lesson on telling stories." Several children had their hands burned before the principal called a halt and fired them. At the hearing the attorney for the dismissed teachers cross-questioned the children, all 4 years old, and tried to make much of their shy reluctance to speak up. He even accused the principal of having coached them and implied the dismissal had been racially motivated.

From the *Oskaloosa Herald* (1976) we read of a second grade Iowa boy whose face was slammed down onto his desk so hard as to permanently disable him. His father is suing. In Guadalupe, California Mexican-American children described before a Senate Committee how they hated lunch because they had to eat in silence but the lunch lady blew a whistle right into their ear (Dymally, 1973). Children have been locked in the school vault, made to lie in a coffin-shaped box and been shut away from light and air in a variety of "time-out boxes" (Associated Press, 1975b).

Retarded children are not immune. Those who live at home and attend school are not as hideously tortured as are some institutionalized handicapped. One such child was given a pants-down spanking on the driveway as he entered the school for the first time (*Sunday Bulletin*, 1977). Retarded children, in spite of inadequate language and understanding, are subject to the same paddling and slamming about as normal children. In Martinez, California some children are even subjected to electric shock with the infamous cattle prods for grinding teeth, and may have a squirt of hot pepper sauce shot into their mouths for disobedience (*Los Angeles Times*, 1977).

Leslie Ellefson and his father are suing a high school principal in La Crosse, Wisconsin for having thrown Leslie against a wall and puncturing his ear drum (*Leader*, 1976). The *Tempe News* (1976) reports another suit in Phoenix, Arizona which charges that a teacher recklessly grabbed Aquila Scott around the neck causing her injuries and a $600 medical bill. High school girls in Tecumseh, Oklahoma are paddled for the first offense of missing a class. When asked what position he required these young women to assume to accept blows on the buttocks, Principal Mihura found the question very funny and said, "I've considered several positions and rather lean toward stringing students up by their ankles, but since simple having them stand on their heacs has such merit, we are still somewhat flexible on that matter" (*News Star*, 1976).

In Mount Clemens, Michigan an assistant principal ordered 17 eighth grade students to strip naked for a search for a lost master key. Two girls in the class had to strip in an adjacent room. The key was not found (United Press, 1976).

I could go on. The tales are endless, each one more bizarre than the one before. Yet what percent of the total instances of corporal punishment they represent is anybody's guess. We think of them as a tip of the iceberg phenomenon, but tip of the volcano might be a better simile. The rolling fury beneath this turbulent outpouring is reflected in our juvenile delinquency statistics, in the violence and vandalism that is wracking our schools, and in the enormous dissatisfaction with our schools that is evident on every hand.

It should be made very clear that most parents would not dream of going to the law to protect their children. That is truly a last resort. The steps usually taken include the following:

1. Good parents usually produce good, that is, cooperative, courteous and studious children. Most parents depend upon their children's good behavior to protect them from abuse in school. Such children are not free from anxiety, however, since their sense of fairness and compassion may also make them highly sensitive to and unhappy about the punishments of others.

2. When a child is punished in school, old-fashioned parents simply assume that the school is right and that the child deserves whatever he gets. It is expected that swats in school are doubled when the child gets home. The faith of the American people in educators as the gatekeepers of the door to success is no longer quite as implicit and unquestioning as of yore.

3. If the parents listen to the child or look closely at bruises, they will usually go first to the teacher for an explanation. Sometimes this is enough. If the parents have status, the teacher may attempt to placate them. In Berkeley some years ago, a kindergarten teacher raised in another tradition was assigned to a school attended by the sons and daughters of university professors. Within a week of her regime with a whip on display, the faculty wives descended upon her, not with condemnation but with enlightenment. "No, we didn't complain to the administration," one of those involved explained to me, "we taught her how to teach gently."

4. If the parents in any community have slightly less clout than faculty wives they may volunteer to be parent representa-

tives on a committee for discipline. This worked for one woman with whom I am acquainted, who moved when her husband transfered from Montgomery County, Maryland to Seminole, Florida. She volunteered and won agreement to a three year phase-out of corporal punishment in her new community.

5. Another escape is to move. Andy finished sixth grade but told his father: "Nuh uh! I'm not going to that junior high. They whip kids there!" His unbelieving father checked it out and reported to me that he had arranged for his son to attend the school of his choice. Sometimes whole families decide to move. Dr. Newhard, his wife Martha and five children stayed with the Ohio schools as long as they could. They worked for improvement; Dr. Newhard even won a place on the school board. The children were not paddled since they were bright and courteous, but they began to feel less and less comfortable with the screams and cries of paddled classmates. In the end, despairing of effecting any fundamental changes in the punitive atmosphere, Dr. Newhard left a flourishing practice and moved across the continent to a California community more to their liking (*Last ? Resort*, 1976).

6. If changing the system or escape are both impossible, harrassed parents who believe their children are physically punished unjustly or too severely will go to the administration. If the complaint can be justified (and this depends more upon the status of the offended party than the facts of the case) the superintendent may censure the offending teacher, suspend him/her for a day, with or without pay, apologize, make promises, perhaps warn the assembled faculty about the close call they had had, and polish his P.R. image with some conspicuous display.

7. If the administration fails to mollify the outraged parent, the school board is approached next. The relative numbers are probably comparable to the California survey which showed that for every seven families who actually went to court, another 63 were stopped at the school board level and 535 had been mollified by the superintendent (Riles, 1974). School boards usually set aside a block of time for community input. Parents with complaints about abuse in a specific case may or may not get the floor but quite a few try. If the school board takes them seriously, makes a genuine investigation and takes appropriate action (reprimand, transfer, termination after hearing), that may be the end of it. A number of reported cases were withdrawn from the courts when the school board handled them well.

8. If neither the administration nor the school board handle the matter to the satisfaction of the parents, they may go public. A parent in Freemont, California whose retarded daughter came home black and blue could get no sensible answers from the teacher, the principal, the school psychologist, the superintendent or the school board. Finally she went to the police. They promised to look into her complaint but on the advice of counsel turned her off with a laconic, "Lady, it's legal." The mother and I visited the office of State Senator Nicholas Petris who was easily persuaded to sponsor a bill protecting handicapped children from corporal punishment. In spite of opposition from a representative of the Council for Exceptional Children, the bill, amended to read "except with parental permission," was passed. It seemed a small step to forbid teachers to hit blind, crippled, retarded children unless mama says OK, but it had far-reaching effects. Not only did the special class which this parent's daughter attended get a new teacher, but they also got an enriched program with field trips, handcrafts, cooking and a speech therapist. The Regional Centers that have custody of the retarded who have no families were able to enforce a blanket "no" against corporal punishment of their charges and this in turn all but eliminated the problem for the state of California.

9. Occasionally parents with few options try to take matters into their own hands. This is uniformly unsuccessful. Direct assault upon a teacher, even if that teacher has assaulted one's child, calls for immediate action by the police. For a shove that would go unnoticed in a crowded bar, a parent can spend time in jail. The story is told elsewhere of the mother, whose 5-year-old son thought he had been sentenced to death, and who tried to still his hysterical crying by attacking his teacher with a kindergarten chair. She was accused of being a dupe of the Black Panthers set to murdering white teachers (Don't kill, 1973). Direct retaliation by paddled pupils is usually reported as vandalism and labelled senseless violence. The antecedent attack by the teacher is rarely mentioned except by implication ("He resented being disciplined"). When teachers report that they feel they have to carry a gun to protect themselves against students, one can be sure that that teacher's discipline has been physical, excessive and unfair (I was a schoolboy, 1976).

10. The last resort of the parents whose child has been battered in school is to go to court. Like other last resorts it is rarely successful. Many lawyers prefer not to take such cases since they are difficult to win. Many judges require that permanent injury and malice must be proved before an "ordinary paddling" becomes assault or abuse. This varies widely, of course, since $3000 was awarded a family after their son had a tuft of his Afro snipped off and was insulted (United Press, 1977). It is generally believed that before they abolished corporal punishment altogether, Los Angeles School Board attorneys had the task of talking irate parents out of suing at the rate of two a week. If parents cannot be talked out of it they may run into a "catch 22" situation. As in rape cases, the court may spend more time investigating the moral character of the victim than in investigating the alleged crime. A family from Oregon found themselves saddled with mountainous dental bills after their son received an uppercut by a teacher. The family told me,

> Our son was not being punished at the time he was hit. He was an innocent bystander. This teacher took out his frustration on our son after he separated two boys who were having a verbal argument. It was proven in court to be an unprovoked assault. My son's favorite teacher . . . went on the stand and stripped him of all dignity and degraded his character. My son's character then became the issue and not the assault. By the court's allowing it to be turned into a corporal punishment case, it was then covered by governmental immunity from law suits. My husband and I were both told we would be witnesses and must stay out in the hall during court. My husband testified for about five minutes and then was sent back out. I was never asked to testify or permitted in the court room from the time it started until after the verdict came in. (personal communication)

Not being a lawyer I am not quite clear as to the meaning of "double jeopardy." I thought it meant that you couldn't be tried twice for the same offense; if you were acquitted, you were free. But what if your lawyer makes a mistake? This is what happened in Gastonia, North Carolina. The coach

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(the coach again!) was charged with picking up a 15-year-old student by the neck and slamming his head against the bleachers for refusing to do some extra pushups. He was charged with child abuse, a crime under a new statute that applies to parents and anyone acting in place of the parent. District Court Judge Ramseur ruled that the coach was charged under the wrong statute and dismissed the charge. He said that while there might be evidence of assault, he did not see enough evidence to support the charge of child abuse. The parents, Mr. and Mrs. Lanny Drum, took out a second warrant charging simple assault. Both charges are misdemeanors. District Court Judge Mason ruled the coach could not be tried on the assault charge because that would constitute "double jeopardy." There will be an appeal (*Gastonia Gazzette*, 1977). But appeals can take years. The *Ingraham* v. *Wright* (1977) case now awaiting decision by the Supreme Court started in 1970.

Although individuals who hire their own attorney have not been particularly successful, the public advocates have done a bit better if recent cases are typical. The American Civil Liberties Union and Rural Legal Assistance have had a certain number of victories, but more of these have been out of court settlements than outright wins. In the California case, *Zamora* v. *Riles* (1974), it was charged and admitted that the principal had strapped the student and bruised his testicles. The case was settled when the defendant agreed to pay $2000 damages and the school district agreed to cease strapping without parental permission. Originally it had been planned to challenge the constitutionality of the whole concept of corporal punishment, but this, of course, came to nothing when the suit was settled. Rural Legal Assistance pursued the *Guadalupe* case. The town was found to be a feudal enclave where the 5 percent Anglo owners ran roughshod over the 95 percent Mexican-Americans by threatening them with loss of jobs and deportation hearings when they protested the treatment their children were receiving in school. One child told that he had been held head down in the toilet bowl while the teacher flushed it. Another teacher was accused of grabbing the children around the neck with the hook he used as a prothesis for a missing hand. That case too was settled amicably when the school board agreed to get rid of the three most punitive teachers, hire a new superintendent and add bilingual counseling (*Ortega* v. *Guadalupe*, 1973). The Chicago school system after almost a hundred-year tradition of "never lay a hand on a child" became embroiled with the problem at the Mosely Social Adjustment School. Northwestern (University) Legal Assistance Clinic obtained a consent decree which restored the policy of no corporal punishment (*Chicago Tribune*, 1976).

It takes outrageous actions by educators to break the tenacious American belief that schools are the royal road to success and that the teacher is always right. That being true, we are justified by this evidence to conclude that corporal punishment is an ubiquitous evil even though middle and upperclass children are comparatively immune.

It should also be clear from this recital that the offenses of the children are so minor as to not even be considered status offenses: forgotten gym clothing, tardiness, unfinished homework, taking both cherry pie AND a cookie on the lunch tray. To my knowledge, in no case was a child who was violent paddled. A 14 year old fired a gun out an open window of a school bus. The driver turned the bus around and drove back to school. Security officers confiscated the gun and took the boy into custody (*Louisville Times*, 1976). Another gun incident involved a 15 year old who shot the principal after he had been humiliated by a public paddling (Associated Press, 1975a). The defense of corporal punishment on the basis of its being needed because of school violence is thus seen to be without merit.

One last comment. Letters to the editor on this subject split about 50-50. Those in favor of physical punishment are generally less grammatical and more angry. Those opposed (with exceptions) tend to be longer, more thoughtfully organized and better expressed. Editorials are less evenly divided, most (perhaps 75 percent) are calmly hopeful that physical punishment can be avoided yet discipline maintained. The 25 percent that favor more and stiffer punishment quote proverbs, often incorrectly, evoke the good old days, or expand on the destructive nature of youth in a permissive society. Editorials in the newspapers of the larger cities, the *New York Times*, *Wall Street Journal*, *Los Angeles Times*, *Washington Post*, etc. are strongly and eruditely in favor of total abolition. The *Sacramento Bee* headlined, "Thousands of Better Ways" in answer to the tiresome question, "What's the alternative?"

To quote President Jimmy Carter, schoolmen as well as nations need to be reminded that "a quiet strength need not be proven in combat."

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A Cross-Cultural Examination of Corporal Punishment: An Initial Theoretical Conceptualization

summary of a paper presented by

Alan Babcock

Corporal punishment may be usefully viewed as an institutionalized practice which can be studied in relation to various methods of child rearing from a cross-cultural perspective. The purpose of the present study is to obtain a broad view of the characteristics of cultures where corporal punishment could easily exist and to compare these cultures with cultures where corporal punishment would be incongruent with other characteristics.

Drawing on the work of Barry, Bacon and Child (1957, 1967) and Whiting and Child (1953) two such groupings of more than 60 cultures are identified. As corporal punishment per se is not listed in surveys of previously observed and identified cultural traits, an indirect index is used to determine (and sometimes infer) which cultures might use corporal punishment. The cultures are thus differentiated and categorized on the basis of four main traits, each with several subsidiary variables. These four traits are 1) overall indulgence of the infant; 2) overall indulgence of the child; 3) average socialization anxiety; and 4) pain inflicted on the infant by the nurturant agent.

After the two groupings are determined on the basis of the four traits, other cultural factors which correlate with the four discriminating traits are identified using data from Textor's statistical survey (1967). The resultant correlations are seen as a basis for generating hypotheses within a framework which treats corporal punishment as a cultural behavior and not simply an individual behavior. The data initially suggest that the more complex a culture, the greater the possibility that it will support corporal punishment.

Alan Babcock, M.Ed. is a graduate student at Temple University in School Psychology. He is an original staff member of the National Center for the Study of Corporal Punishment and Alternatives in the Schools under whose auspices this research was done.

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OPEN FORUM

Corporal Punishment In The Schools: A National Debate

PANEL
Dr. Fred Strassburger *American Psychological Association*
Dr. Gerald D. Morris *American Federation of Teachers*
Ms. Gloria K. Roberts *National P.T.A.*

MODERATORS
Ms. Betsy Levin *Duke University and Visiting Fellow, National Institute of Education*
Ms. Anne C. Lewis *Education U.S.A.*
Dr. Oliver C. Moles *National Institute of Education*

CHAIRPERSON
Dr. James H. Wise *Children's Hospital National Medical Center*

Open Forum

DR. WISE: This particular phase of the conference is designed as an open forum. We have asked the panel members, and I will introduce them in a minute, to lead off the discussion. Later we will open the discussion to everyone here in the room. I would first like to introduce our co-moderators. On my far left is Betsy Levin who is an N.I.E. Visiting Fellow and Professor of Law at Duke University. On her right is Anne Lewis, Executive Editor, *Education U.S.A.* And on my immediate left is Dr. Oliver Moles, who has worked very closely in putting this conference together. He is from the National Institute of Education and is their project officer for this particular conference. What I would like to do now is introduce our panel. I will introduce them individually and ask if they might make an opening statement regarding the association which they represent, its membership, function, and in particular, if they might comment as to any specific position taken by their association regarding corporal punishment.

I would like to first introduce Dr. Fred Strassburger. He is acting chairman of the Task Force on the Rights of Children and Youth of the American Psychological Association.

DR. STRASSBURGER: The A.P.A. is an organization of approximately 45,000 psychologists of whom close to half are doing some kind of clinical work. I don't know what percentage of psychologists they represent, but Division 16 is one of our larger divisions, and that is the Division of School Psychology. We have adopted a position on corporal punishment. It was not without vehement debate. And I might say that the instigator of the original resolution is sitting in the audience. She was a lonely voice, for many years, in our audiences and open forums at the A.P.A. And, finally, she [Dr. Adah Maurer] made so much noise that we invited her to a board meeting. The board that I'm talking about is the Board of Social Responsibility for Psychology which has been in existence for five or six years, and is supposed to act as the conscience of psychologists and psychology in the United States. This is the board to which I was the staff liaison until quite recently. The board created a Task Force on the Rights of Children, which I'm presently chairing, and developed a resolution which was sent to our Council of Representatives for debate. The resolution that was originally passed by the board was not adopted in its verbatim form. It was developed by the task force and the board. It was modified somewhat. The main modification was to put it in more scientific language which we psychologists are prone to do. The second modification was to underline the word "corporal" in the resolution. For those of you who don't understand the subtleties of the psychologist's thinking, that means only corporal punishment is excluded. In other words, other kinds of punishments may be used. This is particularly important to psychologists who are interested in behavior modification and who are using diverse techniques to influence behavior, especially in modifying the kind of self-abusive or self-destructive behavior of autistic kids, where some people feel they've gotten good results with electric shock, and other aversive conditioning techniques. The resolution is kind of long, but interesting, I think.

> Whereas: The resort to corporal punishment tends to reduce the likelihood of employing more effective, humane and creative ways in directing children. It is evident that socially acceptable goals of education, training and socialization can be achieved without the use of physical violence against children. And that children so raised grow to moral and competent adulthood; corporal punishment, intended to influence "undesirable responses," may create in a child the impression that lowers self-esteem; and, may have chronic consequences; research has shown that, to a considerable extent, children learn by imitating the behavior of adults, especially those they are dependent upon. And the use of corporal punishment by adults, as having authority over children, is likely to train children to use physical violence to control behavior rather than rational persuasion, education and intelligent forms of both positive and negative reinforcement. Research has shown that the effective use of punishment in eliminating undesirable behavior requires precision in timing, duration, intensity and specificity as well as considerable sophistication in controlling a variety of relevant, environmental and cognitive factors such as punishment administered in institutional settings. Without attention to all factors, it is likely to instill hostility, rage, and a sense of powerlessness without reducing the undesirable behavior; therefore, be it resolved that the American Psychological Association opposes the use of corporal punishment in schools, juvenile facilities, child-care nurseries, and all other institutions, public or private, where children are cared for or educated.

That's our statement. That's our official position which I'm sure not all of our psychologists agree with one hundred percent.

DR. WISE: Thank you. Ms. Roberts, you are here to represent the National Parent Teacher Association. I wonder if you might share with us something about the National P.T.A. and its position, if any, on the use of corporal punishment in schools.

MS. ROBERTS: The National P.T.A., I'm sure some of you know, is the largest volunteer group in the United States. It has six and a half million members, and these are parents, teachers, and anyone really interested in improving the education, welfare and health of all children in all places. The P.T.A. exists as a state organization in all 50 states and in the District of Columbia, as well as an organized group of American parents in Europe. As an organization the P.T.A. has not taken a national position, and I think you can understand this, with such a diversity of membership as we have. We have many members from states where corporal punishment is permitted. We have congresses in New Jersey and Massachusetts where corporal punishment is prohibited. We have those from states where there is no set policy, leaving the decision strictly to the local school district. So, I suspect it will be a long time before the National organization takes a position. But many of our states, including the District of Columbia, have indeed taken a position. Here in the District of Columbia, the D.C. P.T.A. passed unanimously, in 1961, I believe, a resolution supporting the prohibition of it. So it's pretty much as the states decide. We have had, I believe, one resolution come forward in the last ten years. This came from the State of Delaware to the National Resolutions Committee, simply asking if we could have a resolution saying that there must always be a third party when corporal punishment is being administered. But the National P.T.A. Resolutions Committee felt this really was not a national issue at that time. So nothing has happened. When I speak later, Dr. Wise, I will be simply speaking as a parent; as a former school board member in Washington, D.C., for six years; and, as a substitute teacher in our secondary schools.

DR. WISE: Thank you. Our next panelist is Dr. Gerald Morris who is from the national office of the American Federation of Teachers.

DR. MORRIS: The A.F.T., is the teacher's union which is affiliated with the AFL-CIO and has, at the present time, about 470,000 members around the country. The A.F.T., as a national organization has not taken a position on corporal punishment in schools. It has been debated in conventions, and resolutions, from time to time, have been introduced, but there has been no position adopted. Now this is a reflection of several things. On the one hand, it's a reflection of the great autonomy of local affiliates in policy matters. For example, as you probably know, one of the A.F.T. affiliates has been involved in the case before the Supreme Court in submitting a brief, and that was the action of a specific local and did not involve the national organization. Another reason for not adopting a position is the tremendous variation and local attitudes, even among the few local affiliates that have taken a local position on corporal punishment. There is considerable variation where they stand on that issue. I can give you two instances. This might sound like small differences, but it doesn't amount to small differences when you try to institute a national policy. Take, for example, the case of Dade County, which is involved in the *Ingraham* v. *Wright* case. They advocate that teachers, individually, be given the right to use corporal punishment. Another local, which has publicly taken a position on this matter, is the Pittsburgh Local. It advocates that only school principals be given the authority to use corporal punishment. And so, even within the locals that seem to be in favor of some right to use corporal punishment, there's an important difference in how they feel about it. This, of course, is magnified much more when you consider the range of locals and the many teachers that are not in favor of corporal punishment. I want to say, though, that in talking with people in locals that have spoken out on the issue of corporal punishment, they emphasize that they don't advocate the use of corporal punishment. What they advocate is a flexible approach and simply that there be the right in some matters to use corporal punishment. Now, for example, I could read from a statement which was used by the United Teachers of Dade to express their position as the issue of corporal punishment was debated in their community on corporal punishment. They specify that they are interested in a flexible approach which involves the greater use of alternative schools, improved juvenile court procedures, increased family services, work opportunities for juveniles, more availability of social work personnel, reduced class size, and so on, and they make that definitely part of their approach. Now, I would like to make an observation in terms of why I think teachers have taken a stand in some cases in favor of corporal punishment. I think, in a sense, it is largely symbolic. Although many teachers undoubtedly believe that corporal punishment is effective in terms of discipline in school, I think the issue reflects on the part of many teachers a concern for some expression by the school board or whatever authorities fit, that teachers will be backed up in their attempts to establish or reestablish discipline in the schools. In many schools, there's little presence of legitimate authority. Whatever the teachers try to do, they find that they are not backed up, whether it's by the principal, administrator, or school board. Or, if a situation ends up in the courts, they find that the judge has no alternatives for dealing with the problem. So, I think, to a large extent, when some teachers speak of wanting the right to use corporal punishment, however limited, however defined—what they're really stating is they want to be backed up; they don't want any more buckpassing. They want to be sure that somebody is standing behind them and trying to help them when they're dealing with a situation. In a sense, they are saying, "If you can't do more to help us deal with the situation, then give us the authority to deal with it ourselves." I could go on, but I just wanted to add that personal observation to the discussion of where the A.F.T.'s policy is in terms of corporal punishment.

DR. WISE: I would like to open with a question to Dr. Strassburger. Perhaps playing devil's advocate as a psychologist myself, I wondered as to the basis of the American Psychological Association's position. Is there any evidence—scientific evidence—of the harmful psychological effects of corporal punishment other than suspected from common sense, so that one could put forth scientific empirical evidence to support the position the American Psychological Association has taken regarding the psychological effects of corporal punishment. I say that also with respect to some of the earlier points that were made regarding corporal punishment being possibly preferential to other forms of disciplinary procedures in terms of the child's psyche.

DR. STRASSBURGER: I don't think there's any outstanding or convincing research data. Then I think you might want to get some answers to this from Dr. Maurer. My feeling is that certain positions, even though this is certainly couched in scientific terms, have to be taken for moral reasons. And you look at all the data that's available, and you weigh it on both sides, the pro and the con of it. Finally, you make a decision on the basis of your best judgment. And when I hear people like B. F. Skinner, who many people for some reason tend to associate with the use of shock and negative punishment—when I hear somebody like him say the evidence indicates that corporal punishment is not effective, that there are better approaches, and that the side effects, the negative side effects, are not worth the gains, then I'm pretty persuaded. I don't think Skinner takes any position that is anti-scientific.

DR. WISE: A comment from the audience. Dr. Hyman.

DR. HYMAN: I didn't finish my paper this morning, but in it I consider the scientific aspect of the effects of corporal punishment. I think there is convincing evidence that, number one, corporal punishment, or punishment, as such, doesn't work within the context of the school. An extensive paper will be presented by Mr. Bongiovanni tomorrow. I think there is evidence, from the studies of Rosenshein and the review of research by Rosenshein and Furst, that extreme punitiveness in the class definitely results in less achievement. When only mild criticism or mild praise is used, I think there's evidence about modeling from Bandura that suggests people learn by imitation; this is indicated in the A.P.A. resolution against corporal punishment. So, I think there is a great deal of evidence against the use of corporal punishment. The only problem, as I said this morning, is that nobody has gone out into the schools to do research by beating half the kids and not beating the other half. We have to look at the evidence by inference. I think there is scientific evidence. Some of the things I discussed this morning just have not been presented and integrated in the total literature on corporal punishment.

DR. WISE: Thank you. A comment from Dr. Maurer.

DR. MAURER: I would like to say that probably the most convincing evidence comes from animal studies. The work done primarily by Azrin and Holz, but also done by others,

indicates that this is what the sequence is: When an animal is punished, the first attempt is to escape. They attempt to run away or, in one experiment they found that mice learned to stand on one foot on an electrified grid to escape the shock which would only come if they had both feet down. Other laboratory rats got so clever that they would turn over onto their backs because the hairy coat would protect them. And thus they would escape punishment, but still get the food pellets. If escape is impossible, the second thing that animals do is to become feisty, angry, and aggressive. A caged mate, of the same or another species, that normally would have been tolerated with no attention paid to it would be attacked. A rat, for instance, will attack a mouse in the same cage which, otherwise, it would pay no attention to. If there is no cage mate to attack, the animals will bite anything, even tennis balls. Lacking anything to bite or chew, they begin gnawing or scratching at the bars of the cage. And then, and this is truly the last resort, they become psychotic. I mean, if there was nothing else to be done and the punishment continued, they become totally irrational and don't act like their species normally do. This, translated into terms of children, we can see the first thing children do when there is pain and attempt to escape. They will cry, protest, run away, get a school phobia, or whatever. The next thing that happens if escape is impossible, they will attack their "cage mates" and become more aggressive on the playground. There's lots of evidence that this is true, that children punished for aggression become more aggressive. And then, at the end of the line, they may become psychotic or brain damaged and are put into classes for the emotionally disturbed or severely retarded. Azrin and Holz also make this parallel comparison. So there is much more scientific evidence of all the ill effects of painful punishment on the body of children than has been pulled together.

DR. WISE: I wanted to ask if any of the moderators would like to throw open a question to the panelists?

MS. LEVIN: As a lawyer, I just wanted to ask a question concerning *Ingraham* v. *Wright*. Assuming that the court does not say that corporal punishment should be banned because it's cruel and unusual punishment, but that procedural safeguards are required, would that make a difference in terms of the psyche of the child?

DR. STRASSBURGER: I don't think so. That would be my judgment. I think it would prevent the abuse, and the kinds of things that Adah (Maurer) was talking about. The problem with those studies is, this is extreme punishment, and the superintendent from Burlington was very careful to exclude that category from his analysis. And that's why I think the evidence is not so clearcut. But I think in the mind of a child, the punishment is still there. They're being teased by the kids and they're being exposed in front of other classmates.

MS. LEVIN: So it wouldn't make a difference if the procedural safeguards meant that corporal punishment had to be carried out elsewhere than in front of other children?

DR. STRASSBURGER: I think that helps somewhat barring eliminating it entirely, I would certainly favor that. Sure.

DR. WISE: Mr. Howard?

MR. HOWARD: On this point, I didn't mention it this morning, but one of the arguments I have made in opposing the requirement for procedural due process before the administration of corporal punishment, is that, in fact, that would prolong the anxiety of the child before he actually received the punishment. Again, that if corporal punishment is "valid," then the quicker it's administered and over with, the better. I wonder if you have reactions to that?

DR. STRASSBURGER: I think the use of low anxiety is not an inappropriate tool. I think we might develop ways of using anxiety appropriately to punish without using corporal punishment; for instance, removing a child from a classroom for a certain period of time. But I'm more concerned about the abuse, that if there are not procedural safeguards, the danger of abuse is so great along with the humiliation in front of the classmates, that although I see your point, I think I would rather live with the anxiety than the abuse.

MR. REINHOLZ: It seems a little bit contradictory that first we hear the psychologist and psychiatrist talking about the anxiety of the 600 prisoners on death row waiting for the chair, not knowing today, tomorrow, the next week, the reprieves; and that kind of anxiety is bad, but it might be all right to hang anxiety over the heads of children. The other thing I would be concerned about is the procedural matters of corporal punishment, and I think I would agree with Mr. Howard that if you have an incident necessitating corporal punishment, it's a reasonable alternative punishment for something a child has done. I don't think reasonable people will exercise that prerogative in front of the other children for the purpose of humiliating a kid. We're talking about two different things. If you want to humiliate the kid, you can do it a hundred different ways. You don't have to whack him in front of 35 other kids. The other thing that would bother me is that prohibiting hand guns in Washington, D.C., hasn't stopped crime. Prohibiting corporal punishment in the school is not going to eliminate the abuse of corporal punishment. Whether you have the procedural safeguards or not, you're going to have teachers and principals, if they want to whack a kid, they're going to find a way to whack a kid whether there's procedural safeguards or not. I don't think the issue is a procedural safeguard.

DR. STRASSBURGER: I don't buy that at all. I think that when you have rules against this in the school system, they're not going to have abusers. They may have fantasies about doing it, but I don't think they're going to do it, and I just don't think you will find that.

DR. HYMAN: I think another problem is we tend to confuse scientific with moral with constitutional issues. Chief Justice Stevens made an important point at the *Ingraham* v. *Wright* oral argument. Let's say you do have procedural due process. If that's the only legal limitation, then you could lock a kid up in the cellar of the school for two weeks, as long as you have had legal due process. So the issue, I would agree with you, Mr. Reinholz, the issue is really whether or not you're going to have corporal punishment. The due process constitutional issue is, should children learn the process of democracy in a democratic society in the school. This is a different issue from other issues such as anxiety. The information we have on anxiety is that the higher the anxiety, the more it interfers with the learning. If it's a low amount of anxiety, it may help a complex task. If it's high, it may interfere, and vice versa. I think people take a little bit of the scientific information and a little bit of the moral and a little bit of the constitutional and mix them up. And I think that's making a mistake.

DR. STRASSBURGER: The superintendent was not, I thought, against the use of anxiety. I don't think anybody would use corporal punishment if it wasn't associated with anxiety. It wouldn't do anything if there wasn't anxiety associated with it.

MR. REINHOLZ: Have you ever been hit with a paddle?

DR. STRASSBURGER: In a high school fraternity.

MR. REINHOLZ: Was there more than anxiety attached to that?

DR. STRASSBURGER: Yes!

AUDIENCE: You talked this morning about only using corporal punishment as the very last resort. So that what you're saying is that it's really the fear of corporal punishment which serves as a disciplinary tool and not the corporal punishment itself. So, it's really the long-term use of an anxiety-producing measure. And that seems to be the effectiveness of corporal punishment, and not so much the physical pain that's inflicted.

MR. REINHOLZ: If you have 600 children in a school who have never been in trouble to the point where they are facing the situation of corporal punishment, I wouldn't say that's holding anxiety over their heads. If you've got 600 behaving children, they have no anxieties about being punished. I think it's a deterrant. And the fact that when it comes down on any child that's continually in difficulty, he sees the measure of punishment becoming more stringent. Now I'm not a scientist and I haven't heard anything that says, scientifically, corporal punishment is bad. I've seen some things extrapolated, but I haven't seen any scientific information yet that the psyche of a child is destroyed by using corporal punishment. I'm going to be very unscientific because I think that's what that is, very unscientific. If you see the measure of punishment being increased, then you're getting into anxiety. Then I think you're dangling anxiety over the head of the kid. But with a behaving child, he has no anxiety about corporal punsihment.

DR. MOLES: I want to broaden the issue for just a minute and talk about anxiety. There are other kinds of punishment besides corporal punishment that might make a child very anxious, for instance, other things parents might do as they hear about what the child has done in school. What I would like to ask the panel—and perhaps others may have thoughts on this too—what other kinds of alternatives to corporal punishment might there be? This morning, we heard about the kind of extreme case which puts a teacher on the line where the child is verbally abusive; and there's a need for some kind of action. What kind of alternatives in that kind of a "crisis" situation can teachers turn to?

DR. HYMAN: The only real research that's been done that I know of— I always have to qualify that—is the work done by Jacob Kounen who identified a whole series of mismanagement techniques used by teachers. And let me just give you some examples of things that teachers can do, and again, there is no singular solution. If a teacher has a very quick temper, he or she needs a different solution than somebody who is very pleasant, and goes along for a long while without being upset by things. A major problem in classroom discipline is targeting of the appropriate child. Teachers who tend to blame the wrong child for misdeeds tend to get more misdeeds in their class. Another general strategy is getting to an incident before it goes any further. That is, knowing the children and moving in appropriately and gently and stopping an incident from developing when you have a feeling that it might escalate. Now, it has to be done positively rather than negatively; otherwise, you develop other problems. Another technique is knowing, during a transition period, when you're going to have trouble and handling transition periods. For instance, every teacher in the world should know that when kids line up to go to lunch, there's potential for problems. So, it is important to know where to be at the right time and at the right place, when they're lining up or in other transitions between various lessons. There are many kinds of techniques, and they are the techniques of so-called democratic classroom teachers versus the authoritarian teachers. Classroom climate in the authoritarian classroom is based on external control. Kids in that situation both identify with the aggressor and aggress against other kids. And when the aggressor is gone—and I did a doctoral dissertation on this; I hate to say how long ago it was—but we found when we got the teachers out of the classroom for 45 minutes in the authoritarian class, they went absolutely wild. In the democratic class, the kids were actually "better" than when the teacher was there in terms of talking out of turn, making noise, and so forth. Then, the NEA has a whole list of specific techniques, some of which were supported by some research conducted in Houston where they modified the curriculum. For instance, a lot of behavioral problems that lead to corporal punishment are because kids with third grade reading levels are put in fifth grade classes. They have nothing to do but raise hell. So there are many, many techniques. I think that the problem is that our society doesn't want to pay. Society doesn't want to pay the price to give the teachers the kind of in-service training to change the situation. All the major studies show that teachers want to have the in-service training. And that does not mean a professor coming in and giving a lecture.

DR. STRASSBURGER: Given that the research on either side is shaky, until I see the evidence for corporal punishment, I would not use it, but rather develop the means for creating a more positive environment in the classroom so that you would never have to reach the point where you would even have to consider corporal punishment. That may be a little utopian.

DR. MOLES: I was trying to reflect what some teachers feel.

DR. STRASSBURGER: I think it is important to say that we have empathy for the teachers; I think this political lining up of teachers versus psychologists or other professionals is very bad. I told Adah (Maurer), many times, please let's make it clear that we care about what's happening in the classroom, and that we're just not trying to protect the kids, especially unruly kids. That's very important.

DR. MAURER: One of the scientific ways is to use a pilot project; a demonstration project. And if we can demonstrate that a whole school system can function without corporal punishment and have no more difficulties than anywhere else, I think we have a strong case, and would like to suggest that this is true. I taught school for many years. Not only did I never hit a child, neither did anybody else in any school where I taught. Many of my friends were teachers, and none of them ever hit a child or ever heard of one being hit. And it was not because it was an upper middle class city. I taught at schools with blacks right straight out of rural Mississippi and lower-class poverty stricken, Italian children, and we managed without corporal punishment; and we sent a good many on to their PhD's, if that's any advantage. So, why do we need to prove that corporal punishment is good or bad or that it works? What we need to prove is that we can function without it. Just as the Navy used the cat-o'-nine-tails for years, then they found they could function without it. And this is what I think we need to talk and think about in terms of scientific proof.

DR. WISE: Let's turn to one of our moderators, Anne Lewis.

MS. LEWIS: I'm really curious as to why there's such a

difference of opinion in this country on corporal punishment. Apparently, there are some states like Massachusetts and New Jersey that have completely outlawed it. There are other places that will defend it or have laws that say you cannot prohibit it. Why is that? Is it because corporal punishment has never become a national issue enough to unite opinion one way or the other? Or is it that in some places, people have been very active in supporting it?

DR. STRASSBURGER: I think it's a very minor issue in terms of the whole society. I don't see corporal punishment as a major issue, but I think it's a reflection of the violence of our society. And I think people are divided on that. You talk about violence on television, and most professionals will say it's bad. And it is said that people model themselves after what they see on television, and so on. And yet, those shows are very popular and people want to watch them. And I think it's taking away a tool that people feel they really need. And that is a condition of violence, I think—well, I don't know if that's an answer to your question.

DR. WISE: On the issue of violence on TV, I do know that the National P.T.A. has been interested in that as an issue, and perhaps, to the point where I believe that there are currently, or have been, some regional conferences on that particular subject matter. I think Judge David Bazelon suggested to the National P.T.A. that they ought to be more concerned about things that are going on in the school, directly, than getting involved so heavily in TV. And here we are discussing the issue that is directly related to the schools: corporal punishment in the schools. And, of course, there is divided opinion as to whether or not this should be considered under the general umbrella of violence or child abuse. There is divided opinion here in the room. I wonder, Mrs. Roberts, if you might want to comment on either the issue of violence in the schools and the current concern of the National P.T.A., or some thought you might have, and the possible involvement of the National P.T.A. on it?

MS. ROBERTS: Well, the National P.T.A. will conclude on Tuesday eight hearings that they've held around the country—and I think the last one is in Los Angeles—on the effects of TV violence on the behavior of children. This resolution was brought up and passed at the same National Convention where the issue of corporal punishment as suggested by Delaware, was not even considered. I must say that Judge Bazelon, when I was on the school board in D.C., was a great suggestor of action for the District of Columbia schools. I'm glad he is broadening his horizons and looking at the nation as a whole with his suggestions. But I just want to say, here, in the District of Columbia, I was a school board member for six years and it was during that time that the move to re-institute corporal punishment in our schools was brought up by our teacher organizations. They needed this to keep our schools open, to keep our children safe and so forth. They made strong cases, all of us were in sympathy with the teachers. No one wants a teacher hurt in a classroom. No one wants a teacher unfairly attacked. No one wants that. But it did seem to us that we were not really hearing from all the teachers. We were hearing from this movement of the teacher organization. So, we asked if teachers would please write to the Board of Education. They didn't have to sign their letters if they cared not to. They could identify themselves by positions, whether they were junior high, senior high, or elementary. And if they didn't want to do that, they didn't have to do that either. But if they had any feeling, to let us know. And we had a massive outpouring. All sorts of letters came in and the result was that 60 percent of them opposed going back to using corporal punishment. And I will always remember one letter—and this was a teacher who signed his name; I knew him personally, and he was a big man—and he said, "If you put back into the schools corporal punishment, my days as a teacher will be over. I am the only male faculty member in our school. I will be designated the whipper, and from then on, my relationship with kids will simply be that. If you're bad, you go down to the whipper and he will take care of you with the paddle or with his hands, or whatever." So, fortunately, our board was a nine-person board—there are 11 now—but on a five to four split vote, we decided *not* to re-institute corporal punishment. And I was happy to be one of the five against. I opposed it as a parent. As I said, I do not want and did not want any child facing teachers angered and slapping or whipping or sending them to the principal to do so. And as a substitute teacher in junior high school, I have never felt the need to lay hands on a child to maintain discipline in the classroom. But, parents have different views. I must tell you of two. When an issue was coming up that directly concerned the kids, each board member kind of had a random sampling of parents to call. And I had about 50. And these were Black parents and White parents and Oriental parents, and parents from affluent areas and parents from so-called ghetto areas. And on that list was a personal friend. And when I called her asking what did she think about corporal punishment, she absolutely stated that these kids are going wild and you just have to maintain discipline. I was kind of surprised. And I said, "Oh, then you won't mind if Robert is whipped? Robert is her son. She replied, "What are you talking about? You said corporal punishment for the school." And I said, "But your son is in the eighth grade." So she said, "No one will lay a hand on my son!" You see, for her it's okay for the other 122,000 kids "but not one of mine." The reverse of this was when I was asked to substitute in a print shop class. I'm a Latin substitute, but the school was desperate. They couldn't get anyone. They called and said could you possibly come and hold the print shop, and I said, "If you just want a body, yes I will come. But that's all I can do." When I got to school they met me and said, "You have a monster in your class." And I said, "Well, you know, what's the monster?" And they said, "You will find out soon enough." And the principal escorted me to the door and he said, "Now, if he gets troublesome, if you yell loud enough, I think I can hear you from my office and I will come running down." But he said, "I want you to know, we have on file a letter from the monster's father saying if he's a problem, pick up a lead pipe and smack him up-side the head." And this was truly and sincerely meant. And when I walked in, the monster was obvious. He was six feet three in junior high school. So there was no missing him. He was the nicest, the gentlest, the most helpful young man in that class of young men. But I could imagine, if I had taken that advice literally and went to strike this six foot three, 195 pound boy, what might have happened. But this was truly on record in the office—"hit him with a lead pipe and you will have no more problems."

DR. WISE: I would like to pose this question; I don't know if it's a question or a statement. I would like a response to it, perhaps, from the panel or members of the participating audience. I know of a teacher who taught in a nearby Maryland county which does not allow corporal punishment to be used in the classroom. This teacher recently moved from Maryland to Mississippi. Now there's a great deal of concern nationally

about vandalism and destruction of property, attacks on teachers, and so forth. Her observations are that since she's been in Mississippi, as opposed to corporal punishment as she is personally, there have been only minimal instances or problems in terms of vandalism and discipline in Mississippi in comparison to her observations when teaching in Maryland. So I would like to throw this individual's observation out to the group. How does one respond to this line of defense supporting corporal punishment? Basically, that it is perhaps an effective deterrant to misbehavior and school vandalism?

DR. STRASSBURGER: If we're going to be scientific, I think we have to be scientific on both sides of the issue, and there are so many other variables involved. That to blame it on corporal punishment is just ridiculous. The environment in Mississippi compared to Washington, D.C., is so fantastically different that it would be absurd to say corporal punishment is the reason for the difference.

DR. WISE: Let's suppose that there was a series of studies that would indicate that corporal punishment is a major variable for reducing vandalism and classroom misbehavior. Mr. Reinholz in his talk today, indicated that he never, if I correctly quote or paraphrase him, needed to use corporal punishment more than once on a student. I think that's a fair quote. Considering that is true, he says further that the greater cost to the child and society would be indefinite suspensions, the usual alternative to corporal punishment. How then, would we respond?

DR. STRASSBURGER: I think if that were really true, I might change my mind. I might become a convert. But I don't believe in corporal punishment in the schools.

MS. LEWIS: I would be interested in getting a reaction from Dr. Morris and maybe some of the others. I wonder if you think that corporal punishment, as an issue, is going to become even more important in the future, particularly because of the mainstreaming mandate that children, even those with emotional disabilities, are going to have to be in regular classrooms. And how are teachers going to be prepared for this?

DR. MORRIS: I really don't know. I will be very frank about it. I have no speculations to offer on that. I do know that teachers see themselves under a great deal of duress as a result of mainstreaming.

MS. LEWIS: Doesn't this demand a great deal of teacher training to deal with all kinds of classroom management? Is that happening?

DR. WISE: Some of you may be more familiar with this than others, but there is a mandate that has been in operation requiring the Federal Government Headstart Program's integration of ten percent handicapped with non-handicapped children. This is the guideline that Headstart Programs have been using. I did a small scale survey recently. I found out, surprisingly, that very little has been done in terms of what teachers really *feel* about this particular mandate, particularly, in anticipation of having a variety of handicapped children coming to their class. What we did was ask how "comfortable" teachers were in working with a variety of handicapping conditions. When we combined those "uncomfortable" with those "unsure" as opposed to those "comfortable," we found very few handicapping conditions in which teachers felt genuinely comfortable working with. I think you talked about the behaviorally handicapped. That is one, depending upon the degree, where there is a great deal of lack of comfort. I would also judge that behind all of this is a sense of "I'm not sure what to do." And we get back to that same point that has been raised, I think, without any disagreement from both sides of the corporal punishment issue. In both Mr. Reinholz's talk and Dr. Hyman's, there is a stated need to give teachers alternatives and that there may be a pervasive sense or feeling of inadequacy among many teachers in how to deal with behavioral problems. I would like to raise a related point here, and that is, Mr. Reinholz earlier said his bottom line is using corporal punishment, or else the child would become indefinitely suspended. And I got the feeling many, many children would become suspended and not be in school if corporal punishment were not used in Burlington, Vermont. Yet, Dr. Hyman, in his talk, mentioned a number of countries as well as a few states in which corporal punishment apparently is not allowed. I would like to see if anyone has any figures on what happens in those countries or those states in which corporal punishment is not allowed? What happens to the children? How is the problem dealt with? Do we have any information?

DR. HYMAN: Well, the studies on suspensions from school by the Children's Defense Fund show that there were excessive suspensions in the states where there was corporal punishment. They didn't focus on corporal punishment, but there were excessive suspensions. So, obviously, they're not using corporal punishment as an alternative to suspension. And the study was on minorities. And it showed that minorities are pushed out of school in tremendous numbers. And so, therefore, I would say that argument is not being used as the alternative.

AUDIENCE: I'm wondering, with regards to the budgetary problems, especially in the Burlington situation. If there were supportive services, if the state or the Federal Government put up the funds for these kinds of supportive services the schools say they don't have the money for, would those educators give up using corporal punishment? Or is it so ingrained that it's a necessary thing, that we're not even talking about a monetary question?

MR. REINHOLZ: It's not ingrained with me. If I've got an alternative that's reasonable, whether it costs money or not—and it doesn't make any difference where it comes from—if it's going to work with the kids much more efficiently or more effectively, we will try it.

AUDIENCE: My question is total abolition. Would you be for total abolition if you had some money for other things?

MR. REINHOLZ: If I've got a total solution.

DR. HYMAN: There's never a total solution on anything in human affairs.

DR. WISE: I would like to ask a question of Dr. Morris. There have been a number of points made regarding the need, I think, to provide teachers with some alternative training or some alternative measures. And I wonder if you might comment further on that as a concern that the American Federation of Teachers might be addressing or plan to address.

DR. MORRIS: Well, this has been addressed a great deal already. I tried to make a point earlier when I was reading from a statement by the United Teachers of Dade addressing the issue of corporal punishment. The teachers of Dade County laid out a list of resources they believe are necessary to deal with the discipline problem in the schools. These points have been made again and again in a variety of publications by the AFT and in statements by President Shanker. However this gives me an opportunity to return to something I didn't respond to before when Dr. Moles raised a question about

alternatives to corporal punishment. I was thrown by the question because corporal punishment has always been presented to me as a last resort. What alternatives do you have in a situation of last resort? If you're dealing with the problem before it becomes one of last resort, then the kinds of things that Dr. Hyman referred to are the kinds of things that have also been suggested by the teachers' organizations, resources that are needed to adequately deal with the problems. I might say, more briefly, that in my conversations with people throughout the country, in the teacher's union, people who deal with problems of school violence and vandalism, they continually raise the need for more involvement of parents; the need for developing alternative school situations; the need to get to learning problems when children are very young, and the need to coordinate the activities with the communities' agencies, and so forth. There is nothing new about that. The problem is how to engineer it and bring it about. As far as the reference before about striking a bargain between getting rid of corporal punishment and full resources for education, I'm all for collective bargaining. But I think the kinds of resources that are needed to deal with the problem are an obligation of society, and most of us would agree with that. Teachers certainly believe, I think, that if these resources were provided, then many problems will become very minimal.

DR. WISE: One question I had regards the "in loco parentis" concept. Very frequently, I'm told parents will tell the teacher, "If my Johnny acts up, don't be afraid to give him a whack!" And this may happen in a county or state which may or may not allow or permit corporal punishment. I wonder if we might get a response, perhaps, from Mrs. Roberts or someone else on the panel regarding this as a viable solution. Here I'm again playing devil's advocate, I think, regarding the "in loco parentis" concept. That is, only if the parent says it's okay to use corporal punishment do you use it. If a parent says no, then you don't. I wonder if anyone would like to respond to that?

MS. ROBERTS: I don't think it's okay because the parent says it's okay to do. I really don't. Again, you know, the parent isn't there to see the situation. The parent isn't there, perhaps, to see the anger that the teacher feels or the administrator feels to say, "Go ahead and whack him." I know it is not permitted in the District of Columbia, even though parents might write 10 letters "hit him with a lead pipe." It still is not permissible, as far as our rules go. And I wouldn't want it.

MR. REINHOLZ: For a different reason, I would say don't hit that kid. As I said this morning, if a parent comes in and says, "If he gives you any crap, whack him!" That's going to be the least effective measure. You know damn well, from that comment, that that kid's getting whacked at home. If he's getting whacked at home, it's not going to help him to get whacked more at school. If he doesn't respond at home, he won't respond in school. On the other hand, for the parent to come in and say that ("whack him"), it is not the same thing as—I don't believe; maybe in the legal sense it is, I'm not an attorney—but that's less than "in loco parentis." You are authorized. You are an agent of the parent in that case. You're not standing in the parent's place. It's just as though we hired you for killings, you know. Hire a gun. Take care of him. I don't believe that you're acting on behalf of the parent except as his agent in that situation. We're not here to take whacks at each other except on the side of corporal punishment. But, Dr. Morris, I suggest that next year when teachers negotiate, instead of negotiating for anything for themselves, they negotiate purely for support services for kids. Wouldn't that be an interesting concept? For one year, that everybody that is employed currently, the administrators right through the whole gamut of education, you negotiate for nothing for yourselves but something for the kids. Now, if NEA and AFT and the School Board and society and the public that pays the bill could get together on that, man, what a heck of a lot of resources you could get in public schools for kids. And this whole thing about, "we're concerned about kids," the "I'm concerned about my salary" and "you're concerned about your teacher's salaries and their benefits," and "getting the parking lots plowed in the winter-time," and that stuff. If we could get rid of the selfishness on all of our parts, and think about what we're in business for, we then would be able to come up with our support services. The thing that everybody has to understand is, again, I use that term all the time, the bottom line is that the taxpayer has got just so many bucks, and he's not going to continually tax himself. Or even if everybody can substantiate by virtue of the statistics that he can afford to pay more taxes, he's not going to—there's just so much he's going to pay. It's the distribution of that resources on the bottom line that's going to get the support services in the system.

MS. LEWIS: Are we arriving at the conclusion that the only reason we have corporal punishment in this country is because we don't have the financial resources to not use it?

DR. STRASSBURGER: You hear that occasionally.

AUDIENCE: You talk about schools and institutions, and whatever, but if you accept some of the arguments that were given this morning about corporal punishment being cruel and inhumane punishment, you go beyond the school and are getting back into the homes. I've heard parents, non-teachers, say to me that they are against the efforts to abolish corporal punishment in the schools because, to quote them, "The next thing, you know, the state will be telling me that I can't paddle my kid or spank my kid."And many people see this in the schools. And the state says it's cruel because it happens in the school, and, you know, it's cruel if you do it to your kids. And where do you stand on that?

DR. STRASSBURGER: Personally, I'm against the use of physical violence in the home. But I think that's a very deceptive argument that's being put out because the teachers are already employed by the state, and I do not think it's appropriate for employees of the state to be using physical violence upon the kids in their classrooms.

AUDIENCE: I think teachers and lawyers understand that teachers are agents of the state. But I think most parents out there still see the old concept that the teacher is really an extension of the teaching role of the family.

DR. STRASSBURGER: I wonder if they really see that in the communities where corporal punishment is most of a problem?

AUDIENCE: I would think in most of these communities they probably see it even more so.

DR. WISE: I don't think Ms. Lewis' earlier question was really given full justice.

MS. LEWIS: The feeling I was getting from the discussion was that corporal punishment exists only because we have no financial resources or we're not using our financial resources otherwise.

DR. MAURER: I wanted to make a comment on that. In California, there has been quite a bit of effort to give in-service training. Two of the great favorites are Teacher Effectiveness

Training (TET) and the other is the Glasser "No Fail" method. But a superintendent came to me and said as he looked at our list of sponsors, "Hey, I see you got Glasser down here. That's great! We had a big in-service training on his methods, and our teachers were very enthusiastic." But this one teacher, when he saw Glasser's name said, "Hey, there's something wrong with this. I buy Glasser, of course, but that's just for the good kids. I still reserve the right to hit the bad ones." So, you see, a great deal of in-service training, unless it is tied to the specific prohibition of corporal punishment, just kind of flows as water off a duck's back. I would like to make one other comment on the subject of parental approval or disapproval. I know that some states and some communities permit parents to say, "No, you can't hit my kid." And they make it stick. In California, we went one step beyond that. The schools are not permitted to use corporal punishment unless the parents have approved it. Now a whole lot of parents who will never answer notes from school have not signed approval—and there's a subtle difference between "permission" and "approval." If the parent has not signed approval, either because they disapprove or because the note got lost on the way home, that child is protected and cannot be hit. The result has been a wave of abolition all up and down the state. All of the major cities have abolished it; L.A., San Francisco, San Jose, Oakland, Sacramento, Berkeley, and at least a hundred other smaller communities. The general reaction seems to have been one of "Why bother? We might as well just quit and figure out something else." The very fact that there have been surveys made and requirements to keep records, and all of this, that has the effect of diminishing, and in many cases, abolishing. So it doesn't have to be, necessarily, a Supreme Court decision.

DR. MORRIS: Just a quick response to the question as to whether we only need financial resources to eliminate corporal punishment. I say, most emphatically, no! I think people in the teacher's union would be the first to say this. Let me present my own personal point of view. And that is that much of the problem is a problem of authority structure within schools. What is needed is a change so that it's possible to take some kind of intelligent, rational action in the schools without buckpassing and getting tangled up in red tape and new rules. I think that's the feeling of a good many teachers. But, in addition to being able to take some kind of intelligent action, I hear constantly from the ranks of teachers the need for more resources to deal with the problems of the students who are disruptive and acting out. So you have to have more resources and a clarification of authority in schools. I wanted to make a point earlier that the teachers' desire to have the right to use corporal punishment means that they want to convey the idea in the schools, they want the impression to be generated, that the schools are serious about discipline, that discipline is not a joke. I think many teachers see the right to exercise corporal punishment as a way of getting their message across.

AUDIENCE: I wanted to respond to that too. I really hate for us to say that's where we are coming to because we don't have the finances. You can have all the finances in the world. All the support services. I think there's a study that shows that some of the schools in New York City, where much of the resources go, still have problems. And, to me, it's buckpassing. I'm afraid that so much of the time in our world, we grow up feeling I can't do it because. We put the blame out there someplace else. And we really don't take enough responsibility for ourselves to say what can I do to make a change. I'm all for teachers. I believe teachers need to have good salaries and good working conditions, and so forth. But I think too often a teacher isn't willing to take a look at him/herself and say what can I do in this classroom and this situation to make my dealing with these other human beings more humane?

DR. MORRIS: I don't think the solution of the problem is a wholesale change of attitude on the part of teachers. I think teachers are caught in a very difficult situation and they try to do the best they can. But I think, by and large, they wouldn't have entered the profession if they had more materialistic concerns in mind.

AUDIENCE: From an academic perspective, it would seem to me that if you look at it as a tradeoff and as something that an individual person can do, it seems to me that parents could get together and cut deals with local boards and say, "Look, we would be interested in putting money into these programs if we can get a guarantee from you that if we give you $20,000 next year, you're not going to have any corporal punishment." And it's the same kind of thing a teacher could do too, getting into those kind of deal cutting situations. I've done a lot of work with grant getting, and I would have no interest, myself, in going out and helping the school board get supportive services if I didn't have that guarantee. With the money that's going into child abuse from private agencies as well as the federal and state treasuries, it's really a fashionable kind of thing to be spending money on these things. And I don't see why we can't use the child abuse funding and just move it right over into the schools.

MS. ROBERTS: I just want to say that even though there is a prohibition against corporal punishment, you must not assume that there is no corporal punishment in a particular school system. We know that in Washington, D.C., that there are teachers who abuse and break the law and that there are principals who do that, and parents either are frightened or unconcerned or uncaring enough to bring it to anyone's attention. So, you know, just making an agreement doesn't wipe it out. It gives you some grounds to act if you discover where it is.

DR. HYMAN: I wanted to give you some unhappy information about your statement. The task force which helped set up our National Center, sent out letters to all the major foundations about corporal punishment, and we got a big fat zero. The following year, we finally did get some money. We got a $3,400 grant. Adah Maurer helped us get it from a small foundation. We were discouraged by government officials saying they didn't want to get involved in corporal punishment. Number one, because they thought it was an advocacy issue which not all educators agreed on. We were discouraged. Finally, we did get support from N.I.E. to publish this symposium. So, maybe, the time has come. But up until this point, this is the first major money that's gone into the corporal punishment field, and I would just like to respond to Ms. Lewis' comment with some statistics which I quoted this morning. But I think the facts are, as far as I can see it from the studies, that teachers do want more in-service training, and that means money. They need the in-service training, but they still don't want to give up the right to corporal punishment. And that's a matter of attitude. And that's what we talked about this morning, about values in our society. I would say that it's a hell of a lot easier to change behaviors than it is to change attitudes. So if you could start with the in-service training, then I think the attitudes might follow. That's been my experience in 20 years in education. You change the behavior first, then the attitudes may change.

MR. FRIEDMAN: And it seems to me that those issues which Irwin [Hyman] raised can be met best before the teachers get into the schools. Teacher education programs in this country are notorious for not doing very much to train teachers. And an area where teachers can be trained would be on alternatives to corporal punishment. Hopefully, that training would change their attitudes about the best way to discipline children. So it seems to me that you don't really have to start at the point of complaining about there not being enough money for in-service training or for resource people. And you go one step back from that and say that if those resources, and I'm not talking here about financial resources, rather credits and courses, were spent on teaching alternatives to corporal punishment, then attitudes of teachers can be changed effectively.

AUDIENCE: Do you know what most of the teacher education institutions do? The first time the people get to see a child, and it's the last half of their senior year, they start doing student teaching and find out they can't stand them. But they've already spent four years.

MR. MORRIS: One of the A.F.T. policies, an important one, is an apprenticeship system which gradually introduces new teachers into teaching under the guidance of experienced teachers and the right kind of professional support services, and so forth. A.F.T. looks very favorably upon that.

MR. FRIEDMAN: That's assuming that the teacher will be able to get proper training under those already in the profession.

DR. MORRIS: You know, you have to break into the circle at some point.

DR. WISE: A friend of mine who is a principal in nearby Prince George's County, Maryland told me prior to this conference, that he used to be in favor of corporal punishment. In fact, he would frequently spank kids in his office. A resolution was passed and he couldn't use corporal punishment any longer. Interestingly, he found out that he could handle disciplinary situations without it. He says now that he would never go back and use corporal punishment again, even if permitted. Now, that's an example of one educator's experience. It's anecdotal, yet I wonder whether or not we should be sharing more of these experiences with people who are actually out there every day in the schools—the principals and the teachers?

DR. MOLES: I wanted to ask the people on the panel whether they think there's been a change in the last 5 or 10 years, or perhaps in the last generation or so, in the use of corporal punishment as you read the situation? I realize we don't really have the kind of survey data and other information that we would like to have to get a definitive answer. But if you do see that there's been any kind of a change, I would be interested in your thoughts as to why you think the changes may have come about—if you think there has been any change in the actual use of corporal punishment by teachers and principals and people in the schools. Do you have any thoughts on the matter?

DR. STRASSBURGER: My impression is that it had been disappearing, I would say, maybe 20 years ago. But there has been a movement for it to pick up again. The other people here are more familiar, perhaps, with this than I am, but this is consistent with a general trend in our society, a concern about things getting out of hand, the need for discipline, and so on. But I don't know. Maybe other people would have more specific figures on this.

DR. MAURER: I would agree with you except for the time. It wasn't a decade ago. It was about three decades ago. It was during the last depression when it dropped way, way off. But following World War II, and the succeeding police actions that our nation got into, and the increasing acceptance of violence, including television, I think there has been more willingness to defend it. On the other hand, when we started talking about it in the early '70's, beginning with the N.E.A. Task Force, we discovered that it was much like child abuse. It was becoming known rather than remaining hidden. When I started speaking about it, I got snickering and laughter, on the one hand, or total disbelief that it happened at all on the other hand. Now, all of that is coming out into the open. And we're becoming aware. However, I think, now the trend is reversing again, and I think it definitely is slowing down—if California is any indication of the way the rest of the country will eventually come to.

MS. LEVIN: Along the same lines as the question that Dr. Moles just asked, do any of the panelists know if there are any regional differences in the use of corporal punishment? I have the impression that perhaps there's more corporal punishment in the south, and less in the big cities? Is that true? And if so, why?

DR. HYMAN: Houston is supposed to be the paddling capitol of the country. Texas seems to have quite a bit of it. But, of course, the problem is such that they don't really think it's bad. The statistics are accurate and apparently many people accept it and have no compunction about reporting it. One study that I have, and I really questioned it, was a report by the N.E.A. Task Force of an increase from 300 to something over 2,000 per month from one year to the next. And I just don't believe that this could be, although it was reported in the N.E.A. Task Force report. So, you know, it's important to develop a national survey. The only data that's being obtained right now is from the Civil Rights Division of HEW which is including, I think, two question on corporal punishment in their survey on civil rights for children.

MS. LEVIN: Is there any trend in terms of increase or decrease in laws permitting corporal punishment? I know Louisiana did not have a corporal punishment standard, and has just now passed one. And you say Florida just passed a law that prohibits any city from abolishing it. North Carolina also has such a law.

DR. MAURER: This has been a reaction to the previous Supreme Court decision. And the headlines, as I say, came out with "Supreme Court Okays Spanking in Schools." This was not the decision, but the headline.

MS. LEVIN: I don't know whether this was explained this morning or not, but the only thing the Supreme Court affirmed was that the parent has no constitutional right to prevent a school district from corporally punishing their child.

DR. MAURER: But the headline runners didn't say that. It would be way down in the article where nobody read it.

MS. LEVIN: No. Even the North Carolina Civil Liberties Union which brought the case, hadn't realized what the Supreme Court had affirmed until it was called to their attention.

DR. HYMAN: We wrote to every state in the country, every state superintendent—Louisiana, did they respond to us or was that one of the states that didn't respond?

DR. FRIEDMAN: Louisiana didn't respond.

DR. HYMAN: What did they pass?

MS. LEVIN: Louisiana had no law on corporal punishment—just a general court ruling it was permissible, but no law. The state therefore passed a statute explicitly saying corporal punishment can be used in the school.

DR. MAURER: But it's permissible for all of the districts in Louisiana.

DR. HYMAN: The most ominous sign, and it was the first time I heard of it was in Florida where the legislature passed a law saying that teachers cannot be prevented from using corporal punishment.

DR. MORRIS: I was just going to make an observation. We have a lot of psychologists here. I'm a sociologist. Apparently, there was some discussion about regional differences with respect to values in this society. And I would just assume that in areas where you have greater use of corporal punishment more traditional values prevail. The deep south and southwest, and so forth. And I think that would be true of other kinds of things. The very places that have outlawed corporal punishment are also the places that were the first to accept collective bargaining by teachers. So I think there may be a relationship here.

DR. WISE: I am afraid we have just about run out of time. I would like to thank our panel, moderators and audience for your thoughts and comments. Undoubtedly, corporal punishment will continue to be strongly debated across the country. Your comments here today in this open forum as well as throughout our weekend conference will, I am sure, add to our overall understanding of this important and controversial issue. Thank you.

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